

ORIGINAL

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of:

LONG ISLAND LIGHTING COMPANY
(Shoreham Nuclear Power Station
Unit 1)

Docket No. 50-322-OL-

Location: Hauppauge, New York Pages: 12,842-13,070

Date: Friday, 13 July 1984

TR 01

Original to E. Pleasant

H-1149

3 additional copies to ASIBP

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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 In the Matter of: :
 :
 LONG ISLAND LIGHTING COMPANY : Docket No. 50-322-OL-3
 :
 (Shoreham Nuclear Power Station, : (Emergency Planning)
 Unit 1) :
 :
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Court of Claims
 State of New York
 State Office Building
 Room 3B46
 Veterans Memorial Highway
 Hauppauge, New York 11787

Friday, 13 June 1984

The hearing in the above-entitled matter resumed
 at 9:00 a.m., pursuant to recess,

BEFORE:

JAMES A. LAURENSEN, ESQ., Chairman
 Atomic Safety and Licensing Board
 U.S. Nuclear Regulatory Commission
 Washington, D. C. 20555

DR. JERRY KLINE, Member
 Atomic Safety and Licensing Board
 U.S. Nuclear Regulatory Commission
 Washington, D. C. 20555

DR. FREDERICK SHON, Member
 Atomic Safety and Licensing Board
 U.S. Nuclear Regulatory Commission
 Washington, D. C. 20555

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APPEARANCES:

On behalf of LILCO:

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C O N T E N T S

WITNESS

DIRECT CROSS REDIRECT RECROSS

Thomas E. Baldwin
Joseph H. Keller
Roger B. Kowieski
Philip H. McIntire

12,858

E X H I B I T S

EXHIBIT

MARKED FOR IDENTIFICATION RECEIVED

SCEP 79
SCEP 81
SCEP 82
SCEP 83
SCEP 90

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(9:12 a.m.)

P-R-O-C-E-E-D-I-N-G-S

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3 JUDGE LAURENSEN: Lets go on the record. Before
4 the start of this morning's hearing, we had an off the record
5 discussion of certain procedural matters and disputes concern-
6 ing scheduling of the FEMA testimony, depositions, and we have
7 directed the counsel for FEMA and the County to confer and
8 determine what matters are still in dispute so that those
9 matters can be presented to us before the close of business
10 today.

11 We also off the record received a revised estimate
12 from LILCO concerning their cross examination of the FEMA
13 panel of witnesses, and that is that they had yesterday
14 indicated that it would take an hour and a half, and today
15 they have now indicated it would take approximately one half
16 hour.

17 As we indicated off the record, even prior to
18 that time the Board had discussed the question of the County's
19 questioning of this panel and the limitation we had placed
20 on it on Tuesday, and we had indicated at that time that
21 the Board found in light of the County's representation that
22 they did have additional questions to ask of these witnesses
23 that they should be given all of the remaining time this
24 morning after we complete the oral argument on the two
25 Motions, and we will proceed accordingly on that basis,

1 and depending on how long the other questioning of the FEMA
2 witnesses take, we will consider other revisions to this
3 schedule at that time.

4 So, at the present time we are ready to hear
5 the oral argument on the two LILCO Motions that we have
6 before us, and let me ask the parties, do you want to argue
7 these two together, or do you want to separate them?

8 MR. MILLER: Judge Laurenson, I think a
9 combination. I think some points go to both Motions, and
10 for the sake of efficiency I will try to handle it that
11 way. There are some few different points between the two
12 Motions.

13 JUDGE LAURENSEN: Let's try to combine the two
14 arguments, then.

15 MR. MILLER: I intended to make my arguments at
16 the same time, but there will be some distinctions.

17 JUDGE LAURENSEN: Fine, let's do that, and we
18 will start with the County.

19 MR. MILLER: Judge Laurenson, I will begin by
20 stating that the first point of our response to these Motions
21 by LILCO goes to both the Motion on Contention 85 and the
22 Motion regarding Contention 88, and that is that the County,
23 as we have stated before, is prejudiced by having to proceed
24 orally at this time in response to LILCO's Motions in light
25 of the fact we have not had any opportunity to review

1 Revision 4, which of course, from reading the Motions
2 constitutes the underlying basis for LILCO's Motions.

3 It is interesting to the County, Judge Laurenson,
4 that FEMA as of yesterday in written documents provided
5 to the Board and the parties, indicates that it needs until
6 November 15th of this year to complete a review of Revision 4
7 of the LILCO Plan, and yet when the County has asked for some
8 time to review Revision 4, it has been provided not a single
9 day.

10 So, we are proceeding here in a vacuum, and I
11 will proceed in that context.

12 With respect first to LILCO's Motion to admit
13 supplemental testimony on Contention 85, as the Board has
14 made clear in the past, Judge Laurenson, the admission of
15 supplemental testimony must meet a higher standard than is
16 required for initial testimony.

17 The Board's standard I think initially was set
18 forth in its Order of February 28, 1984, and the -- in
19 response to the County's Motion to file rebuttal testimony
20 by Doctors Cole and Tyree. That standard, as set forth
21 by the Board, is that supplemental testimony, and for that
22 matter rebuttal testimony must be relevant to an important
23 point in the direct testimony; two, that such testimony
24 must be relevant to an issue of decisional importance in
25 the proceeding; three, that such testimony must not be

1 cumulative with other testimony in the record, and; four,
2 that such testimony must be incapable of having been filed
3 in a more timely fashion.

4 With respect to LILCO's Motion regarding
5 Contention 85, LILCO has failed to meet either the first
6 or the last criterion.

7 Reading the Motion, Judge Laurenson, it is
8 clear that LILCO's proffered supplemental testimony does
9 not, is not relevant to an important point in the direct
10 testimony filed earlier by LILCO on March 21st of this
11 year.

12 In fact, the supplemental testimony is not
13 relevant to any point in the direct testimony filed by
14 LILCO. If you look at the Motion -- the two page Motion,
15 Judge Laurenson, it states very clearly on page 2 that this
16 testimony is directly relevant and material to the central
17 issue of Contention 85. It also states that the testimony
18 is limited to a discussion of an issue previously raised
19 in the FEMA RAC report and Mr. Minor's testimony; Mr. Minor
20 being a consultant on behalf of Suffolk County.

21 The testimony, in short, responds to previous
22 testimony filed by the County, and it responds to the FEMA
23 RAC review findings, but it does not raise any point that
24 was raised in LILCO's initial direct testimony.

25 It, therefore, does not meet the first standard.

1 With respect to timeliness and the incapability
2 of the testimony to have been filed earlier, Judge Laurenson
3 a brief historical review of this issue demonstrates that
4 this testimony is untimely.

5 LILCO's testimony on Contention 85, and the
6 County's testimony on Contention 85 were filed on March 21st
7 of this year. The FEMA Report to which LILCO's supplemental
8 testimony attempts to respond was filed -- officially filed
9 on March 15, 1984.

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LILCO met with the RAC Committee on May 11th of 1984 to present its response to the RAC review findings, including a response to the issues raised in Contention 85. Judge Laurenson, this testimony was served on the County, received by the County, on July 5th of 1984.

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For that matter, it's clear that this testimony could have been filed earlier. The testimony is very late. It has been filed at the Eleventh Hour; it has been filed with prejudice to the County in terms of going forward, and it has not met the Board's standard for filing the testimony in a timely fashion. The testimony is clearly based on revisions made by LILCO to its plan. Those revisions constitute Revision 4, which were also filed just a week ago.

We would request, Judge Laurenson, that the Board inquire of LILCO when Revision 4 was first drafted and prepared, specifically when OPIP 3.10.2, the basis for this motion on Contention 85, was prepared and drafted by LILCO. It would appear to the County that this testimony could have been filed earlier, clearly could have been filed earlier, because of the RAC report having been released months ago and because of the County's testimony having been filed months ago, and also it would appear to the County that this testimony could have been filed earlier because Revision 4 could indeed have been filed earlier.

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1 I would just note that the pages in Revision 4,
2 unlike pages to previous revisions of LILCO's plan, are
3 not dated in this case.

4 I guess one of my last points, Judge Laurenson,
5 regarding Contention 85 is that this testimony does not
6 constitute supplemental testimony. If anything, it's re-
7 buttal testimony to the testimony of Mr. Minor. And that
8 is made clear again by the reference on Page 2 of LILCO's
9 motion where it says that this testimony is limited to a
10 discussion of the issues raised in the RAC report and Mr.
11 Minor's testimony.

12 Therefore, the County considers this motion to
13 also be premature, to be prejudicial to the County. The
14 County now faces the prospect of having to litigate a new
15 procedure, Procedure 3.10.2, and then having to put on
16 direct testimony which has been prepared on the basis of
17 information contained in Revision 3.

18 If the testimony is admitted by the Board, Judge
19 Laurenson, the County must be given an equal right to sub-
20 mit new testimony if necessary. And in the County's view,
21 the introduction by LILCO of a new Revision 4 procedure, in
22 and of itself constitutes new testimony which the County
23 must be given a right to respond to, including the right to
24 revise Contention 85 if necessary, and including the right
25 to file new testimony on behalf of the County if that is

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considered to be necessary by the County's expert witness,
2 Mr. Minor.

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My points regarding Contention 88 are in some
ways very similar. Contention 88 is different obviously
because it is a motion to file revised testimony rather than
a motion for supplemental testimony. I will not repeat my
arguments, Judge Laurenson, regarding the prejudice to the
County in not having an opportunity to review Revision 4
and having to respond in a vacuum to this motion.

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Again, it would appear to the County that this
motion could have been filed much earlier. Again, the
points made in the motion indicate that it is being filed
in response to the RAC report and also to the testimony of
the County, both of which have been filed for months in this
case.

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Although LILCO styled this motion a motion to
file revised testimony, it would again appear to the County
that this testimony constitutes rebuttal testimony to the
testimony of Mr. Minor. For that reason, Judge Laurenson,
the fourth criterion of the Board's standard regarding time-
liness also applies to this motion by LILCO, and the same
arguments apply to the County's position regarding that the
motion and the revised proffered testimony is untimely and
that if the testimony is admitted the County must be given
equal footing with LILCO to consider whether it needs to

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1 revise Contention 88 and to consider whether it, too, would
2 want to file new testimony before this Board.

3 This testimony offered by LILCO on Contention 88
4 is not revised testimony; it's new testimony based on new
5 evidence with prejudice to the parties.

6 I guess I would end, Judge Laurensen, by posing
7 a rhetorical question, and that is does LILCO intend to
8 file new testimony on all the issues that are affected by
9 Revision 4 to its plan?

10 JUDGE LAURENSEN. Before we turn the microphone
11 over to Mr. Zahnleuter, let me just inquire what the County
12 would have us do, for instance, on the 88 testimony? Do
13 you prefer that we should litigate the testimony that is
14 already on file, on a revision of the plan, Number 3,
15 that has been abandoned?

16 MR. MILLER: Judge Laurensen, the County's
17 position I think has been consistent in this matter. We
18 don't prefer to litigate old matters or matters which
19 according to LILCO have been made moot by a revision to its
20 plan.

21 But we need equal footing. And we need time to
22 look over Revision 4 and to file -- to determine first
23 whether we need to revise our contentions. Maybe withdraw
24 our contentions, I don't know. But to determine whether
25 we need to do anything with respect to the pending contentions

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1 and to determine whether we, too, would need to revise or
2 modify our testimony pending before the Board.

3 I can state to the Board, I represent to the
4 Board, I did this I think on Tuesday, that there are not
5 attorneys available in our office that know anything about
6 the Shoreham matter available to conduct such a review of
7 Revision 4 at the present time. I have been authorized by
8 Mr. Brown, Mr. Lanpher of my office, who are the managers of
9 this case, to state that if the Board does not accept my
10 word for this as an officer of the court, that they would
11 be glad to take the flight up here, swear under oath that
12 there are not attorneys available.

13 So, we have an attorney problem with our time.
14 There aren't attorneys available. And, two, we have a
15 problem with our expert witness, Mr. Minor. Mr. Minor is
16 very much involved right now, and has been, with the low
17 power issues before another Board in this case. That
18 testimony on low power I believe is due to be filed on
19 Monday, July 16th. Low power issues go to trial on July
20 30th.

21 Mr. Minor can only do one thing at a time,
22 although he has lately been trying to do two things at one
23 time. We have problems with our resources and whether we
24 can respond and decide whether we need to make changes and
25 revisions to this material submitted by LILCO.

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1 The parties aren't on equal footing merely
2 because it's obvious that LILCO and its attorneys have
3 known about matters regarding Revision 4 for a much longer
4 time than the other parties who received this material a
5 week ago. Well, July 5th.

6 We don't wish to litigate stale matters, but we
7 wish to litigate on an equal footing.

8 JUDGE LAURENSEN: Mr. Zahnleuter.

9 MR. ZAHNLEUTER: The State concurs with Suffolk
10 County's position, especially as it pertains to the untimely
11 nature of LILCO's motions.

12 It appears from the face of LILCO's motions
13 that LILCO took the months of April, May and June to con-
14 template preparation of this testimony and to actually
15 prepare it. And now LILCO is asking the other parties to
16 study it and cross-examine on it within a matter of a week
17 or two weeks.

18 I think that is disproportionate and unfair.

19 JUDGE LAURENSEN: Mr. Bordenick.

20 MR. BORDENICK: The Staff has no objection to
21 either motion.

22 JUDGE LAURENSEN: All right. We will consider
23 the LILCO motions and the arguments made here today, and
24 we will have a decision on these two motions before the end
25 of the day.

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MR. IRWIN: Judge Laurenson, could I address
briefly a couple of points that Mr. Miller made with re-
spect to notice to the County? If the Board thinks it has
adequate information, I am not going to insist on it.

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(The Board members are conferring.)

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1 JUDGE LAURENSEN: The Board believes that the
2 matter of timeliness of the motion is one that was
3 addressed by LILCO in its original motion and that there
4 hasn't been anything presented in the argument here which
5 would create an exception to our prior rule that replies
6 to motions are not generally permitted. So LILCO's
7 request is denied.

8 I believe we are ready to resume with the
9 panel of FEMA witnesses. And again, just to reiterate
10 the Board's prior determination that as of right now,
11 we are extending the time available to the county to cross-
12 examine this panel of witnesses until completion of this
13 morning's session.

14 MR. BORDENICK: Judge Laurenson, I don't
15 know where Mr. Glass went, and I will go try to find him.

16 (Pause.)

17 JUDGE LAURENSEN: Mr. McMurray?
18 Whereupon,

19 THOMAS E. BALDWIN

20 JOSEPH H. KELLER

21 ROGER B. KOWIESKI

22 and

23 PHILIP H. MC INTIRE

24 resumed the stand and, having been previously duly sworn,
25 were examined and testified further as follows:

XXXXXXXXXX

1 CROSS-EXAMINATION

2 BY MR. MC MURRAY:

3 Q Gentlemen, I just want to go back to contention 66
4 for a second.5 I believe you stated yesterday that you were
6 aware of some figures in the LILCO plan from which you
7 could determine the number of vehicles which would be on
8 the road during an evacuation of the ten-mile EPZ and
9 also be able to perhaps figure out the vehicle miles
10 traveled.

11 Do you recall that yesterday?

12 A (Witness Baldwin) I recall a discussion of
13 population. I don't recall the discussion about
14 vehicles.15 A (Witness McIntire) What I recall is, I believe
16 I testified to the fact that it was my understanding that
17 there are several studies available dealing with the
18 subject of evacuation, number of vehicles, average miles
19 per hour, those types of things.

20 Q Mr. Baldwin, let's back up a bit then.

21 You are aware of figures in the plan which
22 would let you know how many people would be involved in the
23 evacuation of a ten-mile EPZ, correct?

24 A (Witness Baldwin) Yes, that is correct.

25 Q You are not aware of figures in the plan that

1 would let you know how many vehicles would be involved in
2 such an evacuation?

3 A Okay. I am aware of that data, too. Before
4 we were talking about our discussion yesterday, but what
5 you are asking me, is there data about the number of
6 vehicles, and, yes, it is in Appendix A on each of the
7 descriptions for each zone. There is population, 1980 and
8 1985, and there is also data about the number of vehicles.

9 Q I take it from our discussion yesterday that you
10 did not take that data into account in determining that
11 the provision in the plan to use tow trucks to remove
12 obstacles from the road was adequate?

13 A That is correct.

14 A (Witness Kowieski) If I may add, we have not
15 done any calculations to determine if number of tow
16 trucks specified in the plan is too many or too little.

17 Q Let us then turn forward to contention 67, again.
18 May I please have a description, a brief description,
19 from the panel of its understanding of LILCO's bus
20 transportation scheme for the transit-dependent population?

21 A (Witness Baldwin) The procedures call for drivers
22 being notified and going to the staging areas, receiving
23 instructions, dosimetry, and cards for their dosimeters,
24 and then receiving directions or being dispatched to a bus
25 vehicle pick-up point, which it indicates are garages, and

1 to pick up a bus and then drive to the transfer points.

2 And then the transfer point coordinator at
3 that point would dispatch the bus to run a particular
4 route. The busses would run those various routes and
5 bring the passengers back to the transfer point.

6 They would disembark at that point and get
7 on transfer point busses which would then take them to
8 a relocation center.

9 And that is a description of the transportation
10 arrangements for transit-dependent general population.

11 Q What were the comments regarding this
12 particular bus scheme by the RAC members?

13 (Pause.)

14 Gentlemen, you seem to be looking through
15 documents.

16 Does anybody recall what the comments were of
17 the members of the RAC?

18 A (Witness Keller) We first have to establish
19 which of the criteria elements -- excuse me.

20 MR. GLASS: When you say "comments," are you
21 referring to the final -- in the final RAC report? Is
22 that correct?

23 MR. MC MURRAY: No. I am talking about the
24 comments that were submitted by individual RAC members and
25 the discussion of those comments before the finding was

1 finally made.

2 MR. GLASS: At this point, Judge Laurenson,
3 I wonder about the relevancy. What we are talking about
4 right now is the FEMA testimony, the final ratings.
5 There has been testimony before that there has been full
6 consensus by the RAC members in the final ratings, and
7 I wonder what the relevance of prior comments is to
8 this particular hearing.

9 It may be appropriate for discovery, but I
10 don't know where it helps the Hearing Board.

11 JUDGE LAURENSEN: I think the county should be
12 allowed a reasonable opportunity to probe this.
13 The objection is overruled.

14 WITNESS KELLER: To finish my answer that I
15 started, we first have to establish which criteria element
16 is the correct one which goes to the basis of your question.

17 We can then, from that, go back and try to
18 find out -- the documents we were looking at, both of
19 us, weve 0654, to establish the criteria element designation.

20 (Witnesses conferring.)

21 WITNESS KOWIESKI: NUREG element that deals with
22 relocation is J.10.G, entitled, Means of Relocation.

23 In our review comments, we stated -- our
24 evaluation in the RAC review on page 36, RAC members,
25 some of the RAC members, at least two, were concerned about

1 commitment of resources; specifically two RAC members
2 expressed concern about that LILCO provided only letters
3 of intent.

4 Q Were there any other comments or concerns
5 regarding this scheme?

6 A To the best of my recollection, there were
7 no other concerns expressed by the RAC members.

8 Q Were there any comments at all?

9 A The comments were that this element, three RAC
10 members felt that LILCO transition plan meets NUREG
11 standards.

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1 Q And the others were just concerned about the
2 letters of intent, and nothing else?

3 A That is correct.

4 Q Mr. Baldwin, what was looked at in determining
5 whether or not the bus transportation scheme was, in fact,
6 adequate and I -- let's not go over the issue of letters
7 of intent, okay? Let's talk about the mechanism. The
8 actual working of the bus transportation scheme.

9 A (Witness Baldwin) What was looked at there
10 was whether the provisions for relocation were stipulated
11 in the Plan, and those provisions were there.

12 A (Witness Kowieski) Also, when we evaluated
13 the scheme as such, the thought process that went into it
14 made sense. So we evaluated it -- there was command and
15 control, there was good coordination. We felt that in
16 our opinion this should work. If it will work, it will
17 be determined during the exercise.

18 In other words, the concept, what we saw in
19 the past during the previous exercises for other nuclear
20 sites, it is not exactly the same. You have different
21 conditions. However, whatever we saw, whatever we read
22 in the Plan made sense to us, and in our opinion it should
23 work. If it will work, the exercise will tell.

24 Q Let me -- are you talking about your thought
25 processes, or are you speaking for other members of the RAC,

1 Mr. Kowieski.

2 A It is my thought process. Again, I can only
3 anticipate it went to the other RAC members though process,
4 because other RAC members were with me during the previous
5 exercises, so we observed the same sites, same situations.

6 So, I will say they used the same expertise,
7 similar experiences that I had during the previous
8 exercises.

9 Q Well, let's go to the January 20th meeting.
10 Was there a detailed discussion about the scheme, where
11 you said: This part makes sense; or this part makes sense,
12 or are you just talking about what you thought?

13 A When I opened the meeting, first of all I
14 put together -- we put together the document, what we
15 call the draft document, the working document which was
16 distributed to the RAC members on January 20th.

17 I opened the meeting. I explained the ground-
18 rules. I stated that we are going to review every single
19 NUREG planning criteria. If people have any concerns and
20 comments, I asked them to express their comments, and we
21 incorporated those comments. If you ask me if we discussed
22 this particular element, yes we did. To what extent, okay,
23 as I explained, two RAC members expressed concern about
24 letters of intent.

25 Q And that was the extent of the discussion?

1 Mr. Keller is nodding his head.

2 A If you ask me right now have I instant replay
3 of the situation, I don't. If you ask me if there was a
4 discussion, there was a discussion.

5 Q But you don't recall the discussion other than
6 that it dealt with letters of intent.

7 A (Witness Keller) My recollection is that the
8 discussion involved letters of intent, and therefore, the
9 lack of commitment of resources. And as Mr. Kowieski said,
10 the Plan does contain discussion, does have route maps,
11 et cetera, and therefore there was no reason for us to believe
12 there was any difficulty in the plan if they could get the
13 buses.

14 There was another item that was discussed in the
15 RAC review about notification call out lists for the drivers.
16 That was added, and it is in the testimony.

17 Q (Witness Baldwin) Yes. As I recall the
18 discussion, it focused on the letters of intent, and that
19 a strategy for relocation was located in the Plan. I should
20 say that the variety of strategies that we see in the Plan
21 review is very wide indeed, and so you have to -- I, personally,
22 take this into consideration in looking at a procedure to see
23 that those various considerations that Mr. Kowieski mentioned
24 are there.

25 Command and control decision-making procedures.

1 Drivers. Vehicles. Route maps to follow. And knowledge
2 of those people as to what it is they are to do.

3 Those things are set forth in the Plan and
4 procedures.

5 Q Those things are set forth, but other than
6 reading the words on the page you have not -- on the pages
7 of the Plan, you have not done anything to determine whether
8 or not that scheme will work, correct?

9 A (Witness Kowieski) Again, it is stated for
10 the record, this will be the next step -- next stage. When
11 we go to the exercise, prior to the exercise we will spend
12 great deal of time developing exercise objections and
13 exercise scenario, and we will go to the -- and when we go
14 to the exercise we will be well prepared to test, and we will
15 test, whether the scheme is going to work or not.

16 A (Witness McIntire) May I complete an answer,
17 please. Mr. Kowieski has also testified that based on the
18 RAC members and his own personal experience of observing
19 exercises, that knowledge entered into the discussion of
20 this point.

21 Q Have you reviewed other plans that have used
22 the transfer point scheme?

23 A (Witness Kowieski) Not in Region II.

24 (Witnesses confer)

25 No, we did not. To answer your question, if

1 that exact same scheme was used for other sites that I am
2 responsible for, the answer is, no. There is some
3 modification to the scheme presented in the LILCO Plan,
4 where in one Plan the bus would go around the county
5 parameter to just pick up passengers on the outer limits
6 of the County.

7 Q How is that akin to a transfer point?

8 A I am saying it is not exactly the same concept.

9 Q So, this is really the RAC's first time being
10 confronted with a scheme that involves a transfer point,
11 or multiple transfer points, correct?

12 A At least RAC and FEMA Region II.

13 Q Now you did say yesterday that you went beyond
14 the bare pages of the Plan by performing a rough calculation
15 to see whether they had the right number of buses, correct?

16 A (Witness Keller) That is correct.

17 Q I believe you said yesterday that you took
18 the figure in the Plan, I believe, for the number of
19 estimated transit dependent people and divided that by
20 forty, which represents the capacity of the buses and came
21 out with a number that was roughly 333, correct?

22 A We included in this calculation a rough estimate
23 of the number of runs, and I think we used an average of
24 two runs for each bus -- the evacuation buses, not the
25 transfer buses. And then we added to that the number of

1 buses that were used according to the Plan to go from
2 transfer points to relocation centers, and I believe what
3 we said, I hope what we said, is that we came out close.

4 I don't think we said we came to exactly 333,
5 but the number was in the ball park. It didn't appear to
6 be grossly in error.

7 We made some assumptions in this calculation.
8 We assumed that there were two runs per bus on the evacuation
9 routes, and I don't believe that is an exact representation
10 of what the Plan says, but it is close. We did use the
11 40 passengers. We did not use any capacity figure, and
12 there is, I believe, as I recall, a capacity figure in the
13 Plan.

14 We basically ascertained that their arithmetic
15 was reasonable.

16 Q Well, but using that figure 40, you are assuming
17 that the buses will be filled to capacity in making the runs
18 -- at the end of a run, correct?

19 A As we just said -- or as I just said -- we did
20 not, in a rough calculation, we did not use any capacity
21 figure at all. We did assume a forty passenger bus.

22 I would assume that in some cases the buses
23 would be partially filled, and in some cases they may be
24 over filled. In an emergency, I would expect that somebody
25 might be willing to stand for a reasonable amount of time.

1 We did not do any of that.

2 Q You would agree with me, wouldn't you, that if
3 the buses were not filled to capacity for what ever
4 reason, that more buses, or more bus runs would be required,
5 correct?

6 A If the assumptions used in establishing the
7 number of buses, and the capacity factors which were used
8 in those calculations proved to be in error, for whatever
9 reasons, it would change the number of buses required or
10 change the number of runs that would be required. And
11 that would impact the evacuation time.

12 Q And it would mean that the scheme was flawed,
13 isn;t that correct?

14 A I don't agree with your word, 'flawed.' It
15 would change the number of buses that would be required,
16 or the number of runs, and in addition, the evacuation time.

17 Q The evacuation time estimates would, therefore,
18 be inaccurate?

19 A Evacuation time estimates would therefore be
20 inaccurate, yes.

21 Q If the evacuation time estimates are inaccurate,
22 wouldn't that mean that the Plan was deficient with respect
23 to the times estimates for transit-dependent population,
24 because those figures were inaccurate?

25 A No, not in my opinion,

1 Q Why?

2 A Because it is an evacuation time estimate.

3 If, and I don't believe I have ever seen a representation,
4 that this is the evacuation time, if that representation were
5 to be made, then I would agree with your premise.

6 That if someone represented that it takes
7 exactly -- whatever. Six hours and forty-two minutes, and
8 if there were an error in their assumption, right, and it
9 actually would take six hours and forty-three minutes, that
10 would be an error.

11 If I am told that this is an estimate of the
12 evacuation time, six hours and forty minutes, an estimate,
13 the estimate is in error but almost every estimate, by the
14 nature of an estimate, has some uncertainty in it.

15 Q What level of uncertainty do you find adequate?

16 A I know of no criteria which gives us any guidance
17 on estimating acceptable uncertainty.

18 Q Well, at what point do you --

19 A (Witness McIntire) May I add to that answer,
20 please? There is something also that we have to keep in
21 mind when we are doing this, and that is what the history
22 of evacuations have shown in this country. We have had
23 several well-documented evacuations, particularly from
24 hurricanes along the coastal area, where many more people than
25 are required for have been successfully evacuated with no

1 plans for using buses or other facilities.

2 So, there is one side that you are bringing out,
3 but there is also another side of what the history of
4 evacuation shows, with the absence of planning. That
5 many successful evacuations have been carried out.

6 Q Judge Laurenson, I move to strike that response
7 by Mr. McIntire. We were talking about evacuation time
8 estimates for transit-dependent population, and the level
9 of uncertainty involved in those time estimates. Mr. McIntire
10 has brought in a completely different situation which is
11 the history of evacuations without this kind of scheme.
12 That is irrelevant.

13 The LILCO Plan calls for the scheme. We are
14 talking about the time estimates, and the accuracy of those
15 estimates.

16 MR. GLASS: It has a bearing, Your Honor.
17 Mr. McMurray has referred to a hypothetical where he is
18 claiming that a number of buses, or a great number of buses,
19 or maybe even all the buses would not be at capacity. He
20 is making assumptions based along those lines, and Mr. McIntire
21 is providing additional information that indicates that that
22 may not be the possibility. That probably -- if the buses --
23 or the reasons the buses would not be at capacity is because
24 there would not be a need for the buses to be at the capacity.
25 I think it has a bearing on the particular hypothetical that

1 Mr. McMurray has posed.

2 JUDGE LAURENSEN: As I recall, the question was
3 whether or not -- or what level of error was acceptable
4 or permissible in terms of the confidence in the time evacuation
5 estimates.

6 MR. McMURRAY: That is correct.

7 JUDGE LAURENSEN: Pardon me?

8 MR. McMURRAY: That is correct.

9 JUDGE LAURENSEN: I think that while Mr. McIntire's
10 supplementation of the answer does not directly address that
11 question, it does -- it is relevant to the general area
12 inquired into in the fact that he is supplying information
13 on the whole nature of estimates.

14 And so for that reason, although I don't find
15 it to be directly responsive to the question that was
16 asked, I think it does provide the relevant information, and
17 no useful purpose would be accomplished by striking the
18 testimony.

19 The Motion to Strike is denied.

20 BY MR. McMURRAY: (Continuing)

21 Q Let's go back to the level of uncertainty, Mr.
22 Keller. You stated that there are no criteria that you
23 know of. Are you talking about just NUREG 0654, or are
24 you talking about in your profession.

25 A (Witness Kowieski) NUREG element, when we

1 talk about there is no criteria for us, RAC, to evaluate
2 time estimates provided in the Plan, we refer to NUREG 0654
3 Planning criteria J.10.L.

4 There is no specific requirement that RAC
5 members will check the figures, will check the methodology,
6 or estimates. Historically, it has been done by NRC.

7 We never attempted to in our reviews of other
8 Plans, we never attempted to check the methodology. What
9 NUREG 0654 asked for, the time estimates for evacuation of
10 various sectors, and distances based on dynamic analysis
11 for the plume exposure pathway, emergency planning zones,
12 will be provided.

13 We have evaluated and we found the times estimates
14 are provided in the LILCO Transition Plan for various
15 conditions, and various populations. You have it for
16 permanent population, transient population, general population,
17 special population, and for normal and adverse weather
18 conditions.

19 We found this to be adequate.

20 Q Mr. Kowieski, isn't it true that NUREG 0654 says
21 that those time estimates should be conducted according to
22 Appendix 4 of NUREG 0654?

23 A Yes. Appendix 4 of the NUREG is reference.

24 Q And NUREG 0654 does set out certain standards
25 for methodology and the types of things that should be done

1 in conducting evacuation time estimates, correct?

2 A That is correct. However, it does not provide
3 detailed methodology how to calculate or recheck the time
4 estimates provided in the Plan.

5 Q Mr. Kowieski, in reviewing the time estimates
6 in the Plan, and let's stick to the transit-dependent
7 population, did you and the RAC measure those time estimates
8 against the requirements of Appendix 4?

9 A Well, for transient population, if I refer you
10 to the page of NUREG 0654, it states in B, transient population
11 --

12 Q I am sorry. Where are we right now?

13 A On page 4.3. What this particular part deals
14 with, it deals with transient populations. That time
15 estimates would be provided, and for various conditions.
16 For normal or adverse weather conditions.

End 4. 17
Sue fols.

18

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#5-1-SueT

1 Q Wait a second. We are talking about transit
2 population here.

3 A (Witness Kowieski) Yes.

4 Q That is tourist volumes and employment data for
5 large factories. That's not transit dependent population,
6 correct?

7 A I was searching right now -- okay. Unless I
8 misunderstood your question, are we right now switching to,
9 and trying to limit our discussion of time estimates, for
10 transit dependent population?

11 Q We are talking about Contention 67 now and time
12 estimates for transit dependent population.

13 A And, so what's your question?

14 Q Well, you referred me -- I'm asking you whether
15 or not Appendix 4 provides guidance for developing evacua-
16 tion time estimates --

17 A It does.

18 Q -- and whether or not the time estimates in the
19 plan -- I'm sorry, whether or not the RAC review of the time
20 estimates compared the LILCO scheme to the requirements of
21 Appendix 4?

22 A Still I don't understand your question. Okay.
23 First of all, the way I understand your question, that if
24 RAC evaluated or measured the plan against the NUREG require-
25 ment. The answer is yes. If it is, we found it adequate,

#5-2-SueT

1 the answer is yes. If we took into consideration Appendix 4,
2 the answer is yes.

3 Q How did you take Appendix 4 into account with
4 respect to the transit dependent population?

5 A We used -- if you go to NUREG 0654, J.10.L, it
6 is not specific, does not provide you -- give you a detail
7 with regard to -- for what groups of population time esti-
8 mates should be provided.

9 In addition, does not give you a detail as to for
10 what weather conditions time estimates to be provided.

11 Appendix 4 gives you more guidance as to how to
12 break down, how time estimates should be broken down. And
13 if you go to the RAC review on Page 40 of 60 under Element
14 J.10.L, you can see the RAC specify and acknowledge that
15 plan, the Table 15, Page Roman Numeral V-8, confirms with
16 the preferred format for presenting the data and results
17 for the following types of evacuation. And we cite it.

18 Q You do cite that the format is adequate; I agree
19 with that. Also, under Part 4 of Appendix 4, which begins
20 on Page 4-6 and goes on from there, there is also a section
21 regarding methodology.

22 Did you compare the methodology against these
23 criteria that are laid out in this several pages here going
24 over to 4-10?

25 A (Witness Baldwin) Having seen the detail of all

#5-3-SueT 1

2 the RAC members comments, I am not aware of any RAC member
3 that actually took the methodology and assumptions that are
4 contained in there apart. We looked -- my understanding of
5 what each RAC member did that commented on this, was to
6 see whether the provisions contained in the plan were as
7 I had described earlier, and whether or not it met what is
8 described here in the Introduction, it says -- to read again
9 from NUREG, it says: This section of the report, referring
10 to evacuation time estimates, should make the reader aware
11 of the general location of the nuclear power plant, et cetera,
12 and generally discuss how the analysis was done. A, site
13 location and emergency planning zone. B, general assumptions.
14 And, C, methodology.

15 And I call your attention to C, methodology: A
16 description of the method of analyzing the evacuation time
17 shall be provided.

18 Q So as long as the description is there, you feel
19 that Appendix 4 is met?

20 A (Witness McIntire) We will gladly stipulate
21 that the RAC members nor FEMA are not transportation ex-
22 perts. That's why we do not present the testimony on the
23 methodology. That is presented by the NRC.

24 And what we do is, we accept those methodologies
25 as being generally valid, and we go through the process
which the other people have described in detail to you.

#5-4-SueT

1 Q Isn't it true, Mr. Baldwin, that the real basis
2 for the RAC finding of adequacy on this, with respect to
3 this particular contention, was the fact that the time
4 estimates were reported in the proper format?

5 A (Witness Baldwin) Well, I think that is probably
6 a fair characterization. It's important that these evacua-
7 tion time estimates be included, and obviously that their
8 accuracy be ascertained.

9 The evacuation time estimates are in there,
10 however, so that these time estimates can be taken into
11 consideration in making protective action recommendations
12 which could include an evacuation. In other words, there
13 are no criteria which stipulate that these times, what the
14 parameters of which these times have to fall into.

15 Mr. Keller, I'm sure, can describe this better
16 than I. But the fact is that those time estimates are
17 there for the decision maker in making a decision as to a
18 protective action recommendation involving evacuation so
19 that he can take those evacuation time estimates into
20 consideration.

21 Q But that's an important point, Mr. Baldwin. In
22 other words, the estimates in the plan are to be used by
23 the decision maker. Therefore, Mr. Keller, isn't it true
24 that although they are estimates those estimates should be
25 as accurate as possible?

#5-5-SueT

1 A (Witness Keller) Absolutely. You should strive
2 for the highest possible accuracy.

3 And in this previous discussion on how they
4 could be in error in a non-conservative way, I believe my
5 recollection is that the plan states that the assumption
6 was made that none of the transit dependent population
7 would obtain rides from their neighbors with cars. To the
8 extent that this occurs, that would make the time estimates
9 in error in the other direction.

10 So, there are potential for compensating dif-
11 ferences in the estimate. Everyone should strive for the
12 highest accuracy possible, recognizing they are probably
13 not going to be perfect.

14 Q And, again my question is, while there are no
15 criteria in NUREG 0654 as a professional, Mr. Keller, at
16 what point -- well, let me ask you this.

17 What level of uncertainty for estimates of these
18 kinds -- for these kind is -- what level of uncertainty for
19 estimates of this kind are unacceptable?

20 A In the first place, I don't know -- I do not know
21 how to ascertain what the level of uncertainty is. And
22 before I can make a judgment on what level of uncertainty
23 is acceptable or not acceptable, I have to have some under-
24 standing of the methodology by which I establish that
25 uncertainty.

#5-6-SueT 1

2 If my methodology is only good to a factor of
3 two, let's say, to establish the uncertainty I certainly
4 should not be concerned by a factor of two. If my methodo-
5 logy is good to one half of one percent, that means I can
6 rely on those estimates, the estimation of the uncertainty,
7 to a much greater degree.

8 I don't have any knowledge of any of those
9 things, so I can't say what would be acceptable or unac-
10 ceptable.

11 Q Mr. McIntire, you mentioned that the NRC tradi-
12 tionally has been the one that looked -- that has looked at
13 the methodology of the time estimates, correct?

14 A (Witness McIntire) Correct.

15 Q Is it your understanding that the NRC has looked
16 at the methodology behind the bus transportation scheme and
17 the assumptions on which it is based?

18 A We are not sure of that. We know that there have
19 been, I believe it's two studies, done on evacuation time
20 estimates for around the Shoreham plant. So, at this point
21 in time, without new information being presented to us,
22 and I will stress the fact if new information regarding the
23 evacuation time estimates is made available to the RAC they
24 will do their best in analyzing that to see what impact
25 either way on evacuation time estimates this would have.

In the meantime, we are going to continue to

#5-7-SueT

1 stick with the evacuation time estimates that we have in
2 reviewing the plan.

3 Q I take it your answer is that you do not know
4 whether the NRC has reviewed the time estimates, and I'm
5 talking about specifically for the transit dependent popula-
6 tion?

7 A At this time, no.

8 Q If such a review were not conducted, would you
9 have confidence in the accuracy of the time estimates for
10 the transit dependent population?

11 A If the time estimate were not done by NRC or
12 not done by anyone? Is that your question?

13 Q If the time estimate was not evaluated by the
14 NRC for the transit dependent population, would you have
15 confidence in it?

16 A I think we would continue on the present process,
17 because we would probably conclude that there was no need
18 to do one in the judgment of NRC.

19 Q You have not asked the NRC to look into whether
20 or not the bus transportation scheme and the time estimates
21 associated with it are, in fact, accurate?

22 A Not specifically. But I will point out that
23 NRC is a member of the RAC, and they do have the opportunity,
24 as Mr. Kowieski has testified, to comment on every element
25 in NUREG 0654. So, we draw the conclusion that if they do

#5-8-SueT

1 not provide us any information on this aspect of the plan,
2 then the NRC seems to be satisfied with it.

3 Q You draw the assumption that they have reviewed
4 the time estimates and just have no concern?

5 A I don't draw that assumption. I draw the
6 assumption that they have not commented on it or requested
7 that we pursue something, that they don't have major con-
8 cerns with it.

9 Q Because you assume they have reviewed it?

10 A They have had the opportunity to review it.

11 Q Is there any doubt in your mind whether or not
12 they have reviewed the time estimates for buses?

13 A I personally don't know whether the NRC repre-
14 sentative did review it or not.

15 Q Mr. Kowieski, how many transfer points are in-
16 volved in the bus transportation scheme?

17 A (Witness Kowieski) If you allow me, okay, let
18 me refresh my memory on that.

19 (The witness is looking at a document.)

20 According to my records, the number of transfer
21 points, eleven. And you can find in OPIP 3.6.4, Attachment
22 4, Page 3 of 4.

23 Q Are you aware that a number of the transfer points
24 in Revision 3 have been changed?

25 A I am not aware of this fact.

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(Witness Keller) A clarification. Are you
2 saying that Revision 3 does not have eleven transfer points
3 in it?

4 Q Would that concern you if it didn't?

5 A We have only reviewed Revision 3 and nothing
6 else. So, anything --

7 Q I have the same problem.

8 A So, I think we have said this before. We cannot
9 testify on anything other than Revision 3.

10 Q So it's possible, isn't it, that if there were
11 a different number of transfer points, or if there were --
12 if their locations were changed, the bus transportation
13 scheme might not be adequate, correct?

14 A (Witness McIntire) This is true. And what we
15 will point out is that we have distributed copies of let-
16 ters which has committed the RAC in Region II to review
17 Revision 4 by the middle of November. This will be one
18 of the factors which will, of course, be reviewed in the
19 new revision.

20 Q So if, in fact, the bus transportation scheme
21 has been revised, you can't say that it's adequate until
22 you conduct that review, correct?

23 A That's right. And, as Mr. Baldwin testified
24 yesterday, we have had instances where in one revision
25 plan elements have been adequate and because of new revisions

#5-10-SueT 1

2 they have turned to inadequate. We have had in the majority
3 of the cases where inadequate elements, because of changes
4 to the plan, become adequate at a later date.

5 (Witness Kowieski) I will say the general
6 tendency is that plan improves when the revisions are made.

7 (Witness Keller) Not always.

8 (Witness Kowieski) Generally.

9 Q Mr. Keller, you said one hopes?

10 A (Witness Keller) No. I said but not always.

11 (Witness Baldwin) I know that I looked at these
12 transfer points, and one of the concerns that could be
13 raised is that some of those are either right on the ten
14 mile or within it. And I would suspect that that would be --
15 we are in the realm of speculation here, that that would
16 be one thing that could be changed, that they may want to
17 relocate those -- all transfer points to be outside the ten
18 mile EPZ.

19 Q In your judgment, Mr. Baldwin, would that be
20 more prudent?

21 A Yes. It could be.

22 Q And why? Could you briefly explain your reasons
23 for that?

24 A Well, it's a transfer location where people may
25 have to wait for a bus to be taken to a relocation center.

Q And I take it, what you are saying is that it is

#5-11-SueT 1

2 better that they not wait in an area that is potentially at
3 risk?

4 A Yes.

5 Q And they instead wait outside that area?

6 A Yes, that's correct.

7 Q Have you evaluated whether or not the transfer
8 points have any shelter? That is, that would be adequate
9 for sheltering purposes.

10 I think, Mr. Keller, you said before -- well, I
11 will let you answer that question.

12 A (Witness Keller) We have not to my recollection.
13 As we testified before, our understanding of the transfer
14 points, primarily they are parking lot type of areas. And
15 they would be sheltered in the incoming buses but that
16 gives a very minimal, if any, shelter factor.

17 The shelter factors are not that high in any
18 event, even in the best kinds of buildings, the most ideal
19 types of buildings. We have not evaluated the transfer
20 points for potential shelter factor.

21 Q And I take it, Mr. Baldwin, you haven't evaluated
22 the transfer points -- strike that.

23 The transfer points are set forth in the plan,
24 at least they are identified, correct?

25 A (Witness Baldwin) My recollection, there is a
list of them in Appendix A.

#5-12-SueT 1

2 Q And also the list in Appendix A does give address
3 locations, correct?

4 A That's my recollection. If you like, I can look
5 it up to be more specific but that is my recollection.

6 Q I think you are accurate. You haven't reviewed
7 the plan, have you, or those transfer points to determine
8 whether the locations within the EPZ -- I'm sorry. Strike
9 that.

10 Have you reviewed those locations to determine
11 whether or not they are adequate to perform the function of
12 transfer points?

13 A (Witness McIntire) Could you be more specific?
14 Do you mean just the physical, having passengers get off
15 one bus, wait in a certain space and then get on another
16 one?

17 Q Whether they are physically adequate for that
18 task to be performed?

19 A (Witness Baldwin) No. I have not been to
20 those to do any kind of onsite reconnaissance. I personally
21 have not.

22 Q You haven't, for instance, reviewed any testimony,
23 any of the testimony, where pictures of these transfer
24 points might have been shown?

25 A No.

(Witness Keller) We have not.

#5-13-SueT 1

(Witness McIntire) No.

2

Q You haven't looked at any of the letters of intent or letters of agreement to determine whether or not the area as described in the agreement is adequate?

3

4

5

A (Witness Kowieski) We already testified that there are no letters of agreements of transfer points.

6

7

And to add, they are not required.

8

9

Q Let me ask you this, Mr. Baldwin, and it may be that in many of your subsequent answers you may have touched on portions of this question.

10

11

But on the bottom of Page 66, the sentence going over to Page 67, says: To the extent that the evacuation time estimates contained in the plan have been assessed during the RAC review of the plan, these estimates may meet the NUREG 0654 standards, et cetera.

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Do you see that?

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end #5
Reb flws

1 A (Witness Baldwin) Yes, I do.

2 A (Witness Keller) I don't. I believe you said
3 "may meet" the 0654 standards. I do not see the word
4 "may."

5 Q If I said "may," the accurate reading should be,
6 "These statements meet the NUREG 0654 standards.

7 A I see that.

8 Q Could you describe, in a nutshell, for me --
9 we have touched on bits and pieces of this -- exactly
10 the extent that the evacuation time estimates have been
11 assessed in Appendix A?

12 MR. GLASS: I thought we have gone over this
13 quite a bit. I think it has been asked and answered.

14 MR. MC MURRAY: I think we have touched on
15 whether or not Appendix 4 has been reviewed. I think
16 If I could get get a quick description from Mr. Baldwin,
17 we could move on quickly.

18 JUDGE LAURENSEN: My recollection is the same
19 as Mr. Glass's, but I think, if there is some question
20 about it, let's try it one more time.

21 The objection is overruled.

22 WITNESS BALDWIN: I don't recall any specific
23 comments that dealt with an analysis calibrating the
24 methodology, assumptions, or data contained in the evacuation
25 model described in Appendix A.

1 WITNESS KOWIESKI: If you would like me to
2 restate whatever is already on the record, I will be
3 glad to. I mentioned how the NUREG 0654 requirement
4 as set forth in J.10.L, I went to Appendix 4, the
5 requirements of Appendix 4, that we will evaluate certain
6 group of populations.

7 If you want me again to go to the great detail,
8 I will be glad to.

9 Do you want me to continue?

10 BY MR. MC MURRAY:

11 Q I don't want you to say anything that has
12 already been said on the record, Mr. Kowieski.

13 A (Witness Baldwin) As a followup to what we have
14 said in response to this question, I think it is important
15 to mention the last sentence in our testimony, in our
16 written testimony which states, "Any further assessment
17 of the effect of transfer points and/or multiple bus
18 runs on the evacuation time estimates that are contained
19 in the plan would require technical evaluation of the
20 methodology and/or assumptions used to develop these
21 estimates."

22 That is what we said in the written testimony.

23 Q According to Mr. McIntire -- do you agree with
24 Mr. McIntire, you don't know whether or not these evaluations
25 have been conducted with respect to the transit-dependent

1 population, Mr. Baldwin?

2 A No.

3 Q Do you believe that someone should review those
4 time estimates to make sure that they are adequately
5 conducted?

6 A (Witness Kowieski) Again, we already stated
7 that it is not our territory. That is NRC.
8 Historically, NRC has been responsible for review of
9 evacuation time estimates.

10 Q I understand whose territory it is.

11 Don't you agree, though, that somebody who
12 lives in that territory and whose job it is to review
13 those time estimates should review them before the
14 transit-dependent population time estimates are rated
15 as adequate?

16 A Again, if you go on assumption that whatever
17 is presented in the plan is incorrect, we don't have
18 evidence -- first of all, I don't have evidence that
19 whatever is presented in the plan is in error.

20 Q Don't you agree, Mr. Kowieski, that somebody
21 should review the time estimates for the transit-dependent
22 population to see whether they are adequate?

23 Mr. Keller, you say yes?

24 A (Witness Keller) I personally believe someone
25 should.

1 A (Witness McIntire) And we think it has
2 probably been done by the NRC and their experts. We are
3 not sure whether they testified or not.

4 A (Witness Baldwin) I would follow up, to
5 reinforce what Mr. McIntire has said, they may well have
6 done it, but I personally am not aware of any comments
7 that we received that articulated that.

8 Q I would like to go to the answer on the bottom
9 of page 67, the last two sentences are intriguing.

10 It says that there that, "It should be noted,
11 however, that in its review of the plan, the RAC noted
12 that there are no specific provisions detailing how
13 protective action recommendations would be developed in the
14 absence of an actual release." There is a parenthetical
15 there.

16 "Therefore, it has been recommended that the
17 plan should specify that protective actions such as
18 sheltering and especially evacuation could be implemented
19 prior to significant releases based on a technical
20 assessment of plant conditions."

21 Do you see that in your testimony?

22 A (Witness Keller) Yes. And I also see a typo.
23 That "should" -- the second to the last word on the third
24 line from the bottom should read "should be" rather than
25 "could be."

1 Q Would you --

2 A "Especially evacuation should be implemented
3 prior."

4 Q Okay. That is the change you wanted to make?

5 A Yes.

6 Q Could you explain, Mr. Kowieski, I think the
7 fastest way to do this is, what is the relevance of
8 these two sentences to the issue in this contention?

9 A (Witness Kowieski) I would defer this to
10 Mr. Keller.

11 Q Okay.

12 A (Witness Keller) Any discussion of evacuation
13 times and the time required to implement protective actions
14 and its beneficial effect to the population depends
15 upon the time at which this protective action is implemented,
16 the duration of the time it will take to complete the
17 implementation, and the presence of a risk, a plume,
18 et cetera. Okay?

19 I think I would characterize my own personal
20 belief that the biggest single issue in the RAC review
21 of this plan, revision 3 of the plan, was that there
22 was a deficiency in relying on plant conditions to make
23 protective action recommendations.

24 In other words, to make protective action
25 recommendations prior to the real need, the real

1 plume being present.

2 Q You are talking about prior to a release?

3 A Prior to release. Okay?

4 In that way, you have added significantly to the
5 safety factor, if you will; if you begin to implement
6 your protective actions prior to a real risk, the
7 release, you have obviously added to the safety.

8 And that was cited as a deficiency in the RAC
9 review of the plan, and it shows up in several places.
10 This is one of them.

11 Q This is one of them because it deals with
12 evacuation, and what you are saying is that the
13 decision whether or not to evacuate should be based on
14 information available before a release?

15 A That is correct.

16 Q Okay.

17 You nevertheless feel that this element,
18 the element relevant to the bus transportation scheme,
19 is adequate?

20 A Yes.

21 Q How do you reconcile the fact that it is
22 adequate with the fact that it is not based on information --
23 the decision to evacuate is not based on information
24 available before the time of the release?

25 A Because we find that the bus transportation

1 scheme is adequate. What we find to be inadequate is
2 the timing of the decision to implement the use of
3 the bus transportation scheme.

4 Q I note that you bring up this point, particularly
5 with respect to 67.D, which is the answer regarding the
6 transfer points and whether or not people might be exposed
7 at transfer points?

8 A Yes, because it is particularly relevant in
9 that point. If the people are standing in an open
10 parking lot without shelter, et cetera, whether it is
11 inside the ten-mile EPZ or outside the boundaries of
12 the ten-mile EPZ, it makes no difference, if these people
13 are standing there prior to a release.

14 So we thought that this particular issue, item
15 was particularly relevant in this contention. So we
16 added it to our written testimony.

17 Q I take from your statement that in your
18 opinion, protective actions, recommended protective
19 actions should be implemented and complete or virtually
20 complete before a release in order for that protective
21 action to be adequate; is that correct?

22 A No. No.

23 In an ideal world, you wouldn't have to make
24 a protective action recommendation. But if you do,
25 the earlier you do it, the better.

1 The purpose of emergency planning and
2 emergency preparedness is to reduce dose. The sooner
3 you take the protective action recommendation prior to
4 a release, the greater dose reduction you will have
5 and, therefore, the better your plan will be.

6 We have said that we feel -- the RAC feels and
7 FEMA Region II feels that the plan, as we reviewed it
8 in revision 3, was not adequate because it did not rely
9 sufficiently on taking prior account before releases of
10 the plant status.

11 This does not mean the plan is inadequate, if the
12 protective action cannot be completed prior to the
13 beginning of a release. You have saved dose by starting
14 early.

15 JUDGE KLINE: Gentlemen, that principle
16 seems to me to be of broader significance than just applica-
17 ble to this particular contention.

18 I would like to know, does NUREG 0654 address
19 the issue of what you might call "precautionary
20 evacuation" anywhere?

21 WITNESS KELLER: Precautionary protective action,
22 yes, in the appendices, I believe it is in Appendix B.
23 I believe it is Appendix B. There is some discussion of
24 what should be done at various levels in the plant,
25 various recommendations that the plant should make to the

1 off-site authorities. But in our reading of revision 3
2 of the plan, we felt that was not adequate.

3 JUDGE KLINE: Okay.

4 Is FEMA -- does FEMA expect to take any or
5 formulate any statement of policy or somehow make that
6 principle more prominent than it now appears to be, or
7 at least consider doing that in emergency planning?

8 WITNESS MC INTIRE: Yes. It is my understanding
9 now that the NUREG 0654 is under review for revision, and
10 it is my understanding that a new revision should probably
11 be out within the next year.

12 Does anybody else have any other information?

13 WITNESS KOWIESKI: No, I don't.

14 JUDGE KLINE: Okay. Thank you.

15 JUDGE LAURENSEN: Let me just follow up with
16 Mr. Keller. I don't find any Appendix B. I find
17 appendices one through five.

18 WITNESS BALDWIN: It is Appendix 1 that he is
19 referring to.

20 JUDGE LAURENSEN: Thank you.

21 WITNESS KELLER: There is a table of each
22 of the emergency classifications in the back with
23 expected protective actions. It is in the appendix on
24 page 1-3, they talk about the rationale of notification
25 and alert classifications.

1 (Pause.)

2 MR. MC MURRAY: Mr. Keller, just so we can make
3 a determination that this is worth it, what are you
4 looking for?

5 WITNESS KELLER: The fact that some of
6 these things are discussed in NUREG 0654, but not in
7 the criteria elements, in some of the other portions of
8 the document.

9 MR. MC MURRAY: Is this in response to the Board's
10 question?

11 WITNESS KELLER: I thought it was.

12 MR. MC MURRAY: I'm sorry.

13 WITNESS KELLER: Are you satisfied?

14 JUDGE LAURENSEN: All I wanted to know was where
15 was Appendix B?

16 WITNESS KELLER: Appendix B was a mischaracteri-
17 zation. It should have been Appendix 1.

18 JUDGE LAURENSEN: Let's move on.

19 BY MR. MC MURRAY:

20 Q One or two more questions before we leave
21 this contention.

22 Mr. Baldwin, the plan also sets out -- well,
23 does it set out the various bus companies which are
24 expected to provide busses for this bus transportation
25 scheme?

1 A (Witness Baldwin) The only place I recall
2 seeing the busses set out are in the letters of intent
3 in Appendix B. They may be contained somewhere else
4 in there, too, in Appendix A, but I don't recall it.

5 Q You then have no knowledge of where the
6 bus storage locations are located, correct?

7 A (Witness McIntire) I believe we testified to that
8 fact yesterday.

9 MR. MC MURRAY: Judge Laurenson, I think
10 this is a good time to take the morning break.

11 JUDGE LAURENSON: All right. We will
12 take the morning recess.

13 (Recess.)

14 JUDGE LAURENSON: Mr. McMurray?

15 BY MR. MC MURRAY:

16 Q Mr. Keller, before we left, we were discussing
17 your concern about the need for basing protective
18 action recommendations on information available prior to
19 release.

20 Do you recall that?

21 A (Witness Keller) Yes, sir.

22 Q And you were referring to Appendix 1 of NUREG 0654
23 as providing support for your position, support for your
24 concerns.

25 Do you recall that?

1 A That is correct.

2 Q Could you please, very quickly, go through
3 those portions of Appendix 1 or identify those portions
4 of Appendix 1 that support your position in this matter?

5 A I would suggest you turn to page 1-17, second
6 half of the page, there is a notation 4 and an "A."

7 Do you see that?

8 Q Yes, I do.

9 A Would you like me to read it?

10 Q No. We don't want to read it into the record.

11 Anything else besides part 4.A?

12 A B.

13 Q Why don't you just keep listing them?

14 A C. I think there are other citations also.

15 In addition, there is in existence, I believe
16 they are called information bulletins which are put out
17 from, I believe, Mr. Jordan and the NRC. I have seen a
18 copy of it. I did not consider it in my review of the
19 plan which my recollection is that basically it
20 instructs the licensees to follow these provisions and
21 to make these recommendations in a normal situation,
22 which Shoreham is not.

23 But in the normal situation where you have the
24 licensee and the state and local authorities, the
25 licensee is obligated to make a recommendation to the state

1 and the off-site authorities. In this case, that would be
2 LERO.

3 My recollection of this information bulletin
4 is that Mr. Jordan reminds the licensees that they have
5 this obligation and that they should follow the things
6 which are in this.

7 In other words, as someone, I think Judge Kline,
8 characterized it, "precautionary evacuations" or
9 "precautionary protective actions."

END 6

10 Q Thank you.

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1 Q Gentlemen, let's turn please to page 76 of your
2 testimony regarding Contention 72. Mr. Kowieski, could you
3 please state for me what element of NUREG 0654 and what part
4 of the RAC report are pertinent to this contention?

5 A (Witness Kowieski) NUREG element J.10.L, and
6 RAC comment is provided on this particular element on page
7 40 of the RAC review.

8 Q Now, you will agree with me, won't you, that
9 Contention 72 deals not just with time estimates, but with
10 the full process of evacuating special facilities in the
11 EPZ, correct?

12 A We paraphrase the contention, and we have several
13 questions. We have a Question 88, 89, and 90, and 91.

14 Q I am not just -- when I ask you to refer to
15 a NUREG 0654 criterion that was pertinent to this Contention,
16 I wasn't just talking about Question 88. I was talking about
17 all questions and answers, answers pertinent to Contention
18 72.

19 A I would have to again go one by one our questions,
20 the way we develop, where we broke down the contention, and
21 then I will provide you proper reference to NUREG 0654.

22 Q Well, let me ask you then if what I understand
23 is that NUREG 0654 J.10.L is pertinent to Question 88, which
24 NUREG citations are pertinent to 89, 90, and 91?

25 A 89 deals with NUREG element J.10.G. Means of

1 relocation.

2 Just for the record, it is very hard sometimes
3 to relay the contention to one specific NUREG element
4 planning criteria. Sometimes the contention -- even if you
5 break it down encompasses several NUREG planning criteria.

6 A (Witness McIntire) It is our understanding
7 that the contentions were not formulated to specific
8 NUREG 0654 criteria, is that correct?

9 Q I believe that the contentions do cite NUREG
10 0654 provisions.

11 Let me just state though that what I am asking
12 for is your understanding of which NUREG 0654 criteria are
13 pertinent to the various answers you set forth regarding
14 Contention 72. As I understood what you were saying, Mr.
15 Kowieski, it appears that for each question you had a
16 different NUREG element that was pertinent, or maybe more
17 than one.

18 A (Witness Kowieski) Is that a question.

19 Q I think I had a question, and then a statement,
20 and I was hoping for an answer to the question.

21 A (Witness McIntire) Would you repeat the question?

22 Q Sure. What I am asking for, Mr. Kowieski, is
23 a statement, just a brief indication to me, of which NUREG
24 elements, and which comments in the RAC report are pertinent
25 to all of the questions and answers in Contention 72.

1 A I will just have to state that as we were
2 preparing this testimony we did not go through and mark
3 specifically which NUREG element the question related to,
4 so we are going to have to do that now, and it may take just
5 a few minutes.

6 A (Witness Keller) I would say, to try to --
7 because I have been looking -- I would say that 72 is involved,
8 at least in part, with J.9.

9 A (Witness Kowieski) 72, Question 91 also provides
10 even reference to RAC review at J.10.D.

11 Q Okay. Let me start with J.10.D. Let's turn to
12 NUREG 0654, element J.10.D, as well as your comments -- the
13 RAC comments on that particular element.

14 Mr. Kowieski, NUREG element J.10.D requires
15 means for protecting those persons whose mobility may be
16 impaired due to such factors as institutional or other
17 confinement, correct?

18 A That is correct.

19 Q Now, you have rated Element J.10.D as adequate,
20 isn't that correct.

21 A That is correct. With -- there is a caveat. We
22 made this element adequate provided certain information
23 will be included in the future revisions of the Plan.

24 Q Mr. Kowieski, what was the basis for the adequacy
25 rating for J.10.D?

1 A As stated forth in RAC review comments, that
2 procedures and inventory requirements for protecting mobility
3 impaired persons have been completed, and only one exception.
4 The people that are not confined to the special institutions.
5 The list is being compiled.

6 I paraphrased what was in the RAC review.

7 Q Institutionalized people or confined people would
8 include those in hospitals, or nursing or adult homes,
9 correct?

10 A That is correct.

11 Q Which procedures in the Plan were -- are you
12 relying on to state that the procedures for protecting
13 institutionalized mobility impaired persons have been
14 completed?

15 A OPIP 3.6.5.

16 Q OPIP 3.6.5 is not -- does not have any particular
17 procedures for each individual institution, isn't that
18 correct?

19 A You would like me to check in the Plan?

20 Q Well, do you know whether there are procedures
21 in 3.6.5 for each institution?

22 A The inventory requirements is provided in the
23 cited procedure.

24 Q Would you say that the inventory requirements
25 constitute a full procedure for each institution?

1 A (Witness Baldwin) Could you ask your question
2 again?

3 Q Does OPIP 3.6.5 contain evacuation procedures
4 for the individual institutions that are inside the EPZ?

5 A No, it does not. What it sets forth for
6 each institution is, as Mr. Kowieski said, an inventory.
7 That is one of the things that is set forth.

8 Q Now, what is it about this procedure that leads
9 you to believe that it is adequate with respect to the
10 evacuation of special facilities?

11 A On page 5 of 20, Section 5.2, deals with evacuation
12 of health care facilities. It goes on with nursing homes,
13 hospitals. It has provisions for the ambulance coordinator,
14 bus coordinator, and these procedures, they stipulate how
15 the special facilities evacuation coordinator would notify
16 and the coordinate with those special health care facilities,
17 or those special facilities, the arrangements that they may
18 need to carry out an evacuation if that were to be recommended.

19 Q What assurance is provided in the Plan that
20 that coordination would take place?

21 A (Witness McIntire) Again, that is something that
22 would be verified in an exercise.

23 Q Let me just make clear. There is nothing in the
24 Plan that gives you assurance that this coordination would
25 take place, correct? You are waiting for an exercise.

1 A Correct.

2 Q And the exercise, I take it, will test the
3 level of coordination with each institution involved in the
4 EPZ?

5 A Probably not each institution. Probably this
6 is one of them that we would approach on a sampling basis.

7 Q Are you aware of whether any nursing homes
8 or adult homes in the EPZ have developed procedures, or
9 adopted any procedures to evacuate their patients or their
10 residents in accordance with the LILCO Plan?

11 A (Witness Kowieski) Not in our knowledge. If
12 you ask us a question of actual procedures presented in the
13 Plan have been actually adopted by these institutions, I
14 don't have any knowledge of it.

15 Q Are there any agreements in the Plan with LILCO
16 or anyone else to conduct evacuation in accordance with the
17 LILCO Plan?

18 MR. GLASS: This question has been asked and
19 answered a number of times.

20 JUDGE LAURENSEN: Overruled.

21 WITNESS KOWIESKI: There are no letters of
22 agreements with special facilities that you cited. However,
23 there is no specific requirement in NUREG 0654 that such
24 letters will be provided. If -- special facilities do not
25 have specific role in emergency response.

1 Q You will agree that in the event of an emergency,
2 it is up to the hospital to evacuate the patients if that
3 is what is called for, correct?

4 A (Witness Keller) In the event of an emergency
5 of any type, including a radiological emergency. The
6 Plan, as we stated earlier, does not call for an evacuation
7 of the hospitals as a specific protective action recommen-
8 dation, notwithstanding the fact that they could decide
9 to do it.

10 The three hospitals that were inside the EPZ
11 as we testified earlier, or near the edge of the EPZ, since
12 the risk is a graded risk with distance from the plant, it
13 is the decision of the Plan to call for sheltering of these
14 hospitals.

15 It also states that the administrator of the
16 hospital, if he so desires, can evacuate. And if the
17 administrator does make this decision, LERO will assist in
18 obtaining transportation resources.

19 Q Let's go to the adult homes and nursing homes.
20 Isn't it true that in the event of a radiological emergency,
21 the hospital staff and the hospital administration are the
22 ones who are going to have to conduct the evacuation of the
23 residents and patients in those institutions.

24 A I am sorry. I thought you went back to nursing
25 homes, and you have phrased your question with hospital staff

1 and hospital administrators.

2 Q I am sorry. The institutional staff and the
3 institutional administration.

4 A In the event of any emergency in which an
5 evacuation would be a warranted protective action, the
6 administration of any institution, I believe, has a
7 responsibility to the people in that institution to protect
8 them. And it makes no difference if the emergency in question
9 is a radiological emergency, a fire, severe storm, or what-
10 ever, and in that regard the responsibility of the adminis-
11 trators is exactly the same.

12 Q I think we can agree on that, Mr. Keller. Isn't
13 it true that the special facility administrators will protect
14 their patients in accordance with what they perceive to be
15 the best method of protection?

16 A That calls for an assumption, but I would agree
17 that a reasonable individual would assume that the adminis-
18 trator would protect his patients in the best way he could.

19 Q And isn't it true that his perception of the
20 best method to protect his patients may not be -- may not
21 coincide with LILCO's protective action recommendation.

22 MS. McCLESKEY: I object -- I beg your pardon
23 Mr. McMurray. I didn't mean to interrupt you.

24 MR. McMURRAY: Well, Mr. Keller has already
25 nodded his head yes.

1 MS. McCLESKEY: Well, he didn't say anything,
2 and you can note for the record that he nodded his head
3 yes, but I have an objection to your question, and that
4 is that the question is premised on the notion that licensees
5 have to be guarantors that people are going to follow
6 particular protective actions that are given to the public,
7 and that is outside the NRC regulations.

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9 End 7.
10 Sue fols.

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JUDGE LAURENSEN: The objection is overruled.

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BY MR. MC MURRAY: (Continuing)

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Q Mr. Keller, first of all, I would like an

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answer. I am entitled to that because the question was

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directed to him.

6

A (Witness Keller) Recommendations are indeed

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recommendations. And that's all they are.

8

Any individual or administrator or whatever may

9

or may not accept any recommendation.

10

Q Mr. McIntire, you seemed anxious to add some-

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thing. Do you have anything more to add?

12

A (Witness McIntire) Mr. Keller just added it.

13

MS. MC CLESKEY: Judge Laurenson, I object to

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Mr. McMurray's characterizing noddings of the witnesses

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and leanings and that sort of thing on the record as

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wanting to give answers or having given answers.

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JUDGE LAURENSEN: I assure you, that doesn't

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affect our ruling on the objections.

19

But, insofar as a witness does indicate an

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answer by something other than verbal means I don't think

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there is anything that I know of that precludes counsel

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from noting that, or observing it, or following up on such

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facial expressions. They don't come through on the record,

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of course, since we don't have a videotape of this proceed-

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ing. But I don't know of anything improper about that.

#8-2-SueT 1

2 MR. GLASS: My only concern, Your Honor, is if
3 it is during some preliminary discussions that the witnesses
4 may be having, and if they are trying to note a preliminary
5 discussion it would be reflecting that.

6 JUDGE LAURENSEN: But in all instances, the
7 witnesses are then given the opportunity to answer the
8 question verbally or to explain or to challenge any
9 characterization of their animation, I guess, that was
10 noted by Mr. McMurray.

11 MR. GLASS: As long as that has been clarified
12 to the witnesses.

13 WITNESS KELLER: Where were we?

14 BY MR. MC MURRAY: (Continuing)

15 Q Mr. Kowieski, yesterday you said that there were
16 eight adult homes and nursing homes in the EPZ.

17 Do you recall that?

18 A (Witness Kowieski) Well, I have notes in the
19 front of me. That's correct.

20 Q Isn't it true that there are, in fact, ten
21 such homes in the EPZ?

22 A Based on my calculations there are -- I came
23 up with a number of eight. It's possible that I missed
24 two.

25 Q How did you conduct your calculations?

A A simple calculation. I went through the plan

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and I audit them.

2

Q Well, why don't we go to Appendix A, 4-175?

3

A (The witness is going through a document.)

4

Yes.

5

Q Mr. Kowieski, isn't it true that there are, in fact, more nursing and adult homes in the EPZ?

6

7

A That's correct. We just rechecked and the number is ten.

8

9

I am sorry. The reason, okay, for my miscalculation was that I went by zone designation.

10

11

Q I don't understand your --

12

A In the table of OPIP 3.6.5, on Page 17 of 20, 17-A of 20, the special facilities I also assigned to certain zone designation.

13

14

15

Q Have you evaluated, gentlemen, whether or not LILCO has provided for enough ambulances to evacuate the institutions involved here?

16

17

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A (Witness Keller) I think we have already stated that it is our understanding that LILCO has provided in the plan for none.

19

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21

At the time we reviewed the plan, all we had were letters of intent. We found that to be deficient.

22

23

Q In the plan, does it state a particular number, though, a number of ambulances, on which LILCO relies even though there may not be letters of agreement for them?

24

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#8-4-SueT

1 A (Witness McIntire) Are you asking for a total
2 number of ambulances in the plan or just the number of
3 ambulances for special facilities?

4 Q Special facilities. We are just focusing on
5 this contention.

6 A (Witness Baldwin) We did try to take a count
7 of those ambulances, and based on the letters of intent
8 I was able to come up with an approximate number of
9 two hundred and twenty-five.

10 (Witness Kowieski) And based on my calculation,
11 in trying to add out the numbers for nursing and adult
12 homes, transportation requirements identified in the plan
13 is twenty-six buses, a hundred thirteen ambulances, and
14 two hundred three vans.

15 Q Mr. Baldwin and Mr. Kowieski, did you get your
16 figures by adding up the figures in the inventory on
17 3.6.5?

18 A That's what I did.

19 (Witness Baldwin) I got mine based on the
20 letters of intent.

21 Q Okay.

22 A (Witness Kowieski) The distinction should be
23 drawn, the numbers I gave you are -- constitute transporta-
24 tion requirement. What Mr. Baldwin gave you is a number
25 specified in letters of intent.

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2 Q Which may or may not be the number involved in
the scheme for evacuating special facilities, correct?

3 A (Witness Baldwin) Yes, that's correct.

4 Q Mr. Kowieski, since your numbers are based on
5 the OPIP 3.6.5, did you do anything to determine whether
6 or not those -- that number of vehicles was, in fact,
7 enough to carry out the evacuation?

8 A (Witness Kowieski) No. I just -- I have not
9 gone to any great depth analysis. I have not visited those
10 facilities. No. The answer is no.

11 Q You didn't even perform any rough estimates
12 like you did for the buses?

13 A I don't have recollection. I have total number
14 of residents, one thousand three zero five in my notes,
15 if you ask me. I don't recall at this point.

16 (Witness Keller) I would like to add that I
17 think there is a misrepresentation in your last statement.
18 We said earlier that all we did with the buses was to use
19 the numbers that were in the plan. And we came up with the
20 same number that's in the plan, or close to the same number
21 that was in the plan.

22 We have done no independent verification for the
23 number of buses required or the number of ambulances re-
24 quired or the number of tow trucks that are required. We
25 have done a plan review. And that's all.

#8-6-SueT

1 (Witness Baldwin) And we -- I think we would
2 agree that what we have is a resource count, an estimated
3 resource count.

4 (Witness Keller) According to the plan.

5 (Witness Baldwin) Which is based on the speci-
6 fications in the plan.

7 (Witness Kowieski) Only to assist, I guess, the
8 Board, to assist the -- all the parties just in case the
9 question will come up, we don't have to spend time. You
10 know, I put together some notes to help everyone.

11 Q So, in this particular case, again, you counted
12 the resources -- I'm just trying to get this clear. You
13 counted the resources but have made no estimate as to
14 whether or not those resources are adequate in number;
15 correct, Mr. Baldwin?

16 A (Witness Baldwin) With respect to --

17 Q We are talking about ambulances and ambulettes
18 now.

19 A As Mr. Keller has testified, and I agree, there
20 are no ambulances in the plan, because there are no letters
21 of commitment.

22 Q Are you telling me we can't talk about ambulances
23 now because there are no letters of agreement?

24 A (Witness Keller) The plan at the current stage
25 does not commit one ambulance, in my estimation, all right.

#8-7-SueT 1

2 If you would like to assume that LILCO will indeed
3 ultimately, at some point in the future, obtain letters of
4 agreement which do commit ambulances, okay, we are making
5 an assumption, what we have done is look at the numbers that
6 the LILCO plan contains. As we testified, we have not been
7 to Suffolk County; we have done no independent verification.

8 If the plan had said it needed no ambulances or
9 three thousand ambulances, or whatever it said, that's all
10 we know. If the plan says a particular nursing home needs
11 a van, two ambulances and two buses, that's what the plan
12 says. We don't know whether that is accurate; we don't
13 know whether it's inaccurate.

14 I think we have testified to that, I thought,
15 a number of times.

16 (Witness McIntire) While Mr. Keller was answer-
17 ing, I took Mr. Kowieski's notes and did some rough calcula-
18 tions in my head to try to be more specific to your question.

19 And we show approximately thirteen hundred and
20 five residents in nursing or adult homes. There are
21 twenty-six buses provided for in the plan, but with no
22 letters of agreement; twenty-six times forty is roughly one
23 thousand. Ambulances one thirteen. That brings it up
24 over eleven hundred. Two hundred and three vans, say, four
25 people per van, that's another eighteen hundred, roughly
nineteen hundred spaces are provided for by my rough

#8-8-SueT 1

calculations.

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Q I'm sorry, Mr. Keller.

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A (Witness Keller) The point is, all of those

4

numbers which add up are based on what the plan says. And

5

I think your question was, have we verified that those

6

numbers are correct.

7

We have said over and over again, we have not.

8

Q Fine. One of the types of vehicles to be used

9

are -- is an ambulette; isn't that correct, Mr. Kowieski?

10

A (Witness Kowieski) That's correct.

11

Q What is your understanding of what type of

12

patient can be moved in an ambulette?

13

A (The witnesses are conferring.)

14

I don't have detail knowledge, and I would

15

prefer not to really try to get to the details in answer-

16

ing your question. So, the answer is I don't know details.

17

(Witness McIntire) We are not sure.

18

Q You don't know then whether or not an ambulette

19

is an appropriate means of transportation for all of the

20

residents of a nursing home?

21

A That's true. We have just testified we are not

22

sure. There seems to be some difference of opinion of what

23

type of patients are transported in an ambulette.

24

(Witness Kowieski) But what I can just add to

25

what was said on the subject, that if we go to the exercise,

#8-9-SueT

1 and have in the past, what we evaluate, if we simulate
2 evacuation of wheelchair individual, we would look for a
3 proper vehicle that the individual actually get to, a
4 wheelchair individual can actually easily get into the
5 vehicle.

6 This is being evaluated during the exercise.

7 Q Is it your understanding that such an exercise
8 would be able to evaluate whether or not all types of
9 persons, or whether it is appropriate to use an ambulette
10 for all types of wheelchair bound people?

11 MR. GLASS: Wait. They just stated that they
12 don't have specific information on an ambulette, and now
13 you are asking a very specific question about the capa-
14 bilities of this same vehicle.

15 MR. MC MURRAY: Mr. Kowieski just said that this
16 might be tested in an exercise. I have the right to go
17 into that answer.

18 JUDGE LAURENSEN: The objection is overruled.

19 WITNESS MC INTIRE: Could you repeat the question,
20 please?

21 MR. MC MURRAY: Yes.

22 BY MR. MC MURRAY: (Continuing)

23 Q Mr. Kowieski -- you may confer.

24 A (The witnesses are conferring.)

25 Q Okay. Now, Mr. Kowieski, you said that -- and

#8-10-SueT 1

2 you can correct me if my characterization is wrong -- that
3 the appropriateness of ambulettes to evacuate wheelchair
4 bound patients is one item that may be looked at in an
5 exercise, correct?

6 A (Witness Kowieski) Yes, it's possible. That's
7 right.

8 Q Would that exercise be able to evaluate whether
9 or not all types of wheelchair bound patients may be
10 evacuated in an ambulette?

11 MS. MC CLESKEY: I object. I don't understand
12 what all types of wheelchair bound patients means. I think
13 the question is vague.

14 MR. MC MURRAY: Well, I can't see how it could be
15 vague to counsel for LILCO since we went through this in
16 great detail a few weeks ago.

17 JUDGE LAURENSEN: The objection is overruled.

18 WITNESS MC INTIRE: We will stipulate for t e
19 record that none of the four of us up here are health
20 experts per se. We have members of the RAC that probably
21 have more knowledge in this area.

22 But the point Mr. Kowieski was trying to make is
23 that we will do the best evaluation we can on the potential
24 evacuation of all types of personnel from these facilities
25 and the type of vehicles which would be required to remove
them.

#8-11-SueT 1

BY MR. MC MURRAY: (Continuing)

2 Q Do the procedures, or what you purport to be
3 the procedures, for evacuation of special facilities in
4 the plan contain any assumptions regarding how long it
5 would take to prepare the patients for evacuation?

6 Mr. Kowieski?

7 A (Witness Kowieski) No, they do not.

8 Q So you have not reviewed that? Because it's not
9 in the plan, you have not reviewed that, correct?

10 A That's correct.

11 Q Does --

12 A (Witness Keller) If you allow me, based on a
13 discussion we had earlier today, this is another place which
14 is not discussed in any of these contentions.

15 But it's important to take protective action,
16 to make protective action recommendations as early on as
17 possible so that all of these lead times, whatever they
18 may be, will have a greater separation between the time
19 that you make the protective action recommendation and the
20 time that the actual release occurs.

21 Now we did not reference that, I don't believe,
22 in this portion of our testimony. But it does indeed impact
23 here.

24 Q Does the -- do the procedures in the plan lay out
25 any sort of system that should be developed for determining

#8-12-SueT 1

which patients should go first, should be evacuated first?

2

A I am not -- from recall, I'm not sure it's

3

in the special facilities that we are talking about now.

4

But there are some discussions in the plan about the radio-sensitive to children and the pregnant women.

5

6

Q We are talking about the -- I'm sorry. We are

7

talking about the institutionalized people now.

8

A I don't recall whether or not that that particular

9

discussion is involved with the institutionalized people.

10

But the plan does have, as guidance for decision makers,

11

et cetera, that the radiosensitive should be evacuated

12

first.

13

Q Okay. We will get to that. With respect to the

14

special facilities, gentlemen, let's focus on the adult

15

homes and nursing homes.

16

Are you aware of whether or not they provide

17

adequate sheltering for their population?

18

A I'm sorry. Would you define adequate?

19

Q Let me ask -- let me break down the question.

20

Do you know whether they have adequate space to shelter

21

all of their populations?

22

A There are no specific space requirements for

23

sheltering as it is used in a sheltering protective action

24

recommendation. If the people are in the building prior to

25

protective action recommendation, there is by definition

#8-13-SueT 1

space.

2 Q So, in your opinion, just any old amount of
3 space is adequate as long as the people are inside?

4 A In an emergency, that is correct.

5 Q Even for institutionalized people?

6 A If the institutionalized people are inside
7 prior to the initiation of the emergency and they remain
8 inside, I don't see how the space requirement changes.

9 Q Is that true even if the space doesn't have
10 some of the equipment required for the care of these
11 individuals?

12 A I don't understand. I think that I said that
13 if the people are inside being cared for with the required
14 equipment, and they stay inside when the emergency is
15 initiated, and the emergency does not remove any of their
16 required equipment, I don't see how it impacts space.

17 end #8
18 Reb flws

19

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1 Q So as long as they are inside and getting
2 adequate care, that is okay?

3 A That's right.

4 Q But there is nothing in the plan, is there,
5 that let's you determine whether or not these, the popula-
6 tions of the institutions could be sheltered inside and
7 receive adequate care?

8 A There is noting in our review which leads us
9 or requires us or even requests us to evaluate the
10 adequacy of these institutions prior to the initiation
11 of the emergency. I think that is what you are asking
12 me to do, since we said that the space doesn't change
13 at the inception of an emergency. And if you want me
14 to say, are these adequate now, today, I don't know.

15 Q Doesn't sheltering require that one moves
16 people away from rooms with windows?

17 A It is preferable to close the windows.
18 It is preferable to move to basements. It is preferable
19 to do lots of things. But in order to apply the least
20 beneficial sheltering factor you just get inside, close the
21 doors, close the windoes.

22 If you can move to basements, you can apply
23 a slightly greater protective factor, et cetera, et
24 cetera.

25 If you put a masonry shell around a frame

1 building, you can use a greater protection factor.

2 That is not envisioned. You have what you have,
3 the building, the space, the windows, and the factors are
4 commonly applied.

5 Q Mr. Kowieski, are you aware of any provisions
6 to keep the inventory in OPIP 3.6.5 up to date?

7 (Witnesses conferring.)

8 WITNESS KOWIESKI: Inventory that you refer to
9 deals with --

10 BY MR. MC MURRAY:

11 Q It is the one you pointed out to me, the
12 inventory of various patients in the nursing homes and
13 institutions.

14 A I believe that, my recollection of the NUREG
15 requirement -- I may verify that -- that has to be updated
16 on annual basis.

17 Q And is there provision in the plan for such an
18 update?

19 A (Witness Baldwin) Yes.

20 A (Witness Kowieski) We would like to verify.

21 Q Please do.

22 (Pause.)

23 A (Witness Keller) I refer you to the RAC
24 review at P.3, page 58 of 60.

25 Q Could you repeat that?

1 A I refer you to the RAC review at P.3 on page 58
2 of 60.

3 Q On the bottom of page 76, gentlemen, you
4 state that the relocation centers, to which persons in
5 special facilities would be evacuated, have not been
6 arranged at the time of the RAC review of the LILCO
7 transition plan.

8 Do you see that?

9 A That is correct.

10 Q That is still true, isn't it?

11 A To our knowledge. We don't know whether it is
12 true or not, but we have not seen any indication that there
13 has been a change.

14 Q I take it you would agree that the plan is
15 deficient in that regard then?

16 A That needs to be completed, that is correct.

17 Q Would there have to be agreements with those
18 relocation centers to take the patients from the special
19 facilities?

20 A The relocation centers would require letters
21 of agreement, that is correct.

22 Q Just to clarify, I am talking about the relocation
23 centers for the --

24 A Special population.

25 Q -- special population. And you would expect that

1 there would have to be letters of agreement with those
2 particular relocation centers which were going to receive
3 the special population?

4 A Yes. The relocation centers, under our definition
5 of a couple days ago, have a response function. Their
6 function is to receive, care for, shelter, feed, et
7 cetera. And in this case, we are talking about special
8 populations. It would require a letter of agreement from
9 that function.

10 Q Thank you.

11 On page 77, gentlemen, you state that or at
12 least you cite to a portion of the plan that says
13 evacuation of the hospitals will be, if it is necessary
14 at all, or desired by the administrators, would be made
15 using available resources.

16 Do you see that?

17 A That is correct.

18 Q What resources are we talking about there?

19 A We assumed busses and/or ambulances and
20 ambulettes.

21 Q Is there any assurance that there would be
22 adequate available resources to conduct this evacuation
23 in the plan?

24 A The plan does not assure anything. The plan
25 discusses and, as the citation clearly shows, that they

1 will make these resources available to the busses using
2 available resources. There is no commitment of separate
3 resources for the evacuation of hospitals because the
4 LILCO plan has chosen, as a protective action, the
5 primary one, sheltering.

6 If the administrator of the hospital chooses
7 to not follow the LERO protective action recommendation,
8 the plan has added a feature saying, look, we will help
9 you on an as-available basis.

10 Our recommendation is you stay right where you
11 are because you have the health care facilities, you
12 have the life support systems for your patients, et
13 cetera. Additionally, you are near the edge of the
14 ten-mile EPZ, you have masonry construction buildings,
15 you have good ventilation systems in hospitals, as a
16 general rule.

17 The risk is a graded risk and at near the edge
18 of the EPZ is much lower than the risk near the plant.
19 And for the combination of these reasons, as a planning
20 basis, the LERO plan, transition plan, says, our recommenda-
21 tion is going to be shelter. Okay?

22 If you choose not to follow that recommendation
23 and you need to evacuate, we will assist you as we can,
24 basically.

25 Q Mr. Keller, if I understand what you are saying,

1 the LILCO plan is telling the hospitals, if you want to
2 evacuate, we will try to provide whatever resources are
3 available, but the plan is not saying, we will provide
4 all the resources to conduct the evacuation?

5 A I don't read it that way. They may, indeed,
6 provide all the resources for evacuation.

7 My reading of the plan is that LILCO will
8 supply resources necessary to the evacuation as they are
9 available. If they were available, I presume, reading
10 the plan, they would supply them all.

11 Q And the resources may or may not be available?

12 A That is correct.

13 Q Depends what happens at the time?

14 A Because there are in the plan commitments of
15 resources for other functions. And I would interpret
16 that to mean that if the resources that LILCO has, if
17 they get letters of agreement, has commitments for are
18 committed to evacuation, A, schools, B, nursery homes,
19 C, adult homes, et cetera, and they were in the process
20 of evacuating those facilities and the total complement
21 of busses, ambulettes, et cetera, had been previously
22 committed and an administrator of a hospital said, I would
23 like to evacuate counter to your recommendation, I
24 would assume that LILCO would say, At this instance, we
25 have no resources available. We will try to get you some

1 as soon as we can.

2 Q Let's go to contention 73 that is on page 79
3 of your testimony.

4 Gentlemen, you are aware, correct, that LILCO
5 has attempted to identify handicapped individuals residing
6 at home using a mail survey, mail cards method, correct?

7 A (Witness Kowieski) Yes, we are.

8 Q Have you actually read the card involved?

9 A (Witness Keller) Yes, I have read the card.

10 Q Did you read it in order to evaluate it for
11 its adequacy?

12 A No, I did not.

13 Q Are you aware of any information that would
14 help you to determine the proportion of mobility-impaired
15 persons who have actually returned the card?

16 A (Witness Kowieski) We don't have any information
17 to this effect.

18 Q You have no way of knowing, just from the review
19 you have conducted, whether or not or what proportion
20 of the handicapped individuals in the EPZ have, in fact,
21 returned the cards, correct?

22 A That is correct.

23 Q Does FEMA intend to determine that in the
24 future?

25 (Witnesses conferring.)

1 A (Witness McIntire) We may or we may not. We
2 are not sure at this time.

3 A (Witness Kowieski) I may add, basically
4 what is being done that at certain point, obviously you
5 asked in this case LILCO, where do you stand as far as
6 the survey is concerned of mobility-impaired individuals.
7 And it has been common practice, at least in our region,
8 that when we go to the exercise, we simulate evacuation
9 of at least one or two mobility-impaired individuals.

10 So at that time, first of all, one should
11 understand, the list is confidential. The list is
12 confidential. So I cannot simply ask, well, send me
13 a list of mobility-impaired individuals. This is a
14 confidential list.

15 The list, however, will be available, should
16 be available for review, our review, during the exercise.

17 We we do, just very limited basis, would
18 select several addresses, and we would ask the ambulance
19 or van to just drive around and be able to locate
20 those individuals, if they need a special requirement.

21 Q That wouldn't help you to determine whether or
22 not handicapped individuals in the EPZ had returned their
23 postcard, correct? That would help you determine whether
24 or not the ambulance driver could get to the home of
25 a handicapped individual?

1 A That is correct.

2 A (Witness Keller) That is correct.

3 I think it is important to add that what NUREG
4 0654 requires is that an attempt be made to compile
5 some methodology of identifying the handicapped and
6 what their needs are. Commonly, this mail-in card is
7 used at many sites. There is no way that anyone can
8 require the public to avail themselves of a, I guess, of a
9 service, if you will. There may be handicapped individuals
10 who get the card and say, I am not going to mail it back
11 in. I refuse to.

12 That is not a fault on the part of any utility.
13 Just as I tried to say before, a protective action
14 recommendation is only a recommendation -- no matter who
15 gives it. And an individual may say, I am going to
16 follow the recommendation or I am not going to follow
17 the recommendation.

18 Our obligation, I believe, is to see that
19 the cards have been sent out and that those responses
20 that have been sent in are, indeed, not thrown away.
21 But I don't believe that there is an obligation on our
22 part to go around and knock on every door in Suffolk
23 County and say -- in the ten-mile EPZ -- and say,
24 have you sent in your card if you need to.

25 This plant has gotten some degree of publicity,

1 and I don't believe there is a resident living in the ten-
2 mile EPZ who is not aware of this controversy. It is
3 possible, but I don't believe that.

4 If someone didn't get the card, I believe he
5 has had a reasonable opportunity to avail himself of
6 this, I guess I will call it, service.

7 Q You are assuming a couple of things, and I believe
8 -- let me run down and see if you agree with me.

9 You are assuming, first of all, that the
10 individual reads the card that is contained in the
11 brochure or that is sent to him by LILCO correct?

12 A Either he reads it or someone in his household
13 reads it to him, yes.

14 Q You are assuming also that the card is
15 adequate to inform the individual that a service is
16 being offered to him and that he should avail himself
17 of that service, correct?

18 A Yes.

19 A (Witness McIntire) If I may supplement that, it
20 has been our experience in all types of emergency
21 response activities that most handicapped people have
22 either someone in their home or have made some other
23 arrangements for all types of emergencies, if they need
24 something or need to be taken some where, that most of
25 them have made individual plans.

1 Q You haven't made any analysis about the
2 Shoreham EPZ and the people in it in that regard, have you?

3 A That's right. Nor do I have any reason
4 to believe it is different from other parts of the country.

5 Q The bottom of page 80, gentlemen, you say
6 that the listing of the needs has been compiled from the
7 pre-registration cards -- I'm sorry.

8 Let me start that over. "However, until the
9 listing of the needs has been compiled from the
10 pre-registration cards, there is no way of ascertaining
11 how many handicapped individuals will need assistance."

12 Do you see that?

13 A (Witness Keller) Yes.

14 Q Aren't there other methods other than the
15 mail survey which can help to determine how many
16 handicapped individuals will need assistance?

17 A (Witness Kowieski) Ther could be also --
18 Mr. Glass?

19 (Laughter.)

20 I'm sorry. I saw Mr. Glass wanted to
21 interrupt me. I am sorry.

22 MR. GLASS: I just want some clarification.
23 In the statement here they are dealing with a situation
24 where we are talking about a listing of needs and
25 then individuals asking for assistance.

1 Mr. Keller and Mr. McIntire have just testified that there
2 may be other ways that people have taken care of their
3 needs.

4 Therefore, I am a little confused by your
5 particular question. I think you seem to be combining
6 two concepts at this point.

7 MR. MC MURRAY: Just to clear your confusion,
8 Mr. Glass --

9 MR. GLASS: That would be appreciated.

10 MR. MC MURRAY: -- the question to Mr. Kowieski
11 -- and I will restate it to you, Mr. Kowieski -- is --
12 I will try and make it simpler -- what other methods are
13 there for ascertaining the number of handicapped
14 people who might need assistance?

15 WITNESS MC INTIRE: Do you mean contained in
16 the plan or how many are there in the universe?

17 BY MR. MC MURRAY:

18 Q Let's say how many methods are there that
19 reasonable emergency planners might consider?

20 I am not talking about just in the LILCO plan.

21 A (Witness Kowieski) Any method could be
22 supplemented by others and one way, with respect to
23 compiling of list of mobility-impaired individuals,
24 one could also use social organizations, community
25 leaders, religious leaders.

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There are many ways that could supplement
a survey card. No specific requirement, as far as I know.

1 Q Do you know whether the LILCO Plan provides
2 for such supplemental means of ascertaining the needs of
3 handicapped people?

4 A You are referring to additional methods?

5 Q Yes.

6 A I am not aware of it.

7 Q Let me just put it to you simply. Other than
8 the survey method, does the LILCO Plan provide for any
9 other method to ascertain the needs of handicapped people
10 in the EPZ?

11 A The answer is, no.

12 Q Let's go to Contention 22, on page 11. Contention
13 22 deals with the configuration of the EPZ, correct?

14 A That is correct.

15 Q Is there any particular part of the RAC review
16 that corresponds to this contention?

17 A If you will allow us to --

18 Q Let me clarify my question so you are absolutely
19 sure what I am asking.

20 A Right.

21 Q Is there a RAC finding that the EPZ as configured
22 meets any requirements you are aware of?

23 A Allow us one minute.

24 (Witnesses confer)

25

1 A (Witness Keller) In J.8 there is the citation
2 that the licensee's plan should -- it discusses the plume
3 exposure EPZ, and in other sections of 0654, the plume
4 exposure EPZ is discussed as, quote, a ten mile EPZ.

5 And within that regard, that kind of goes to
6 this contention. We are not aware of a specific NUREG 0654
7 criterion that addresses this.

8 Q The RAC Committee really did not review the
9 adequacy of the EPZ, correct?

10 A (Witness Kowieski) First of all, it is a given.
11 NUREG 0654 document is based, at least the planning zones,
12 10 and 15 mile zones, emergency planning zones, are based
13 on the EPA-NRC document NUREG 0396, which establishes
14 criteria with regard to the size of the planning zones.

15 Q Mr. Kowieski, did the RAC Committee review the
16 configuration of the EPZ to determine whether or not it
17 met NRC guidelines with respect to its size and configuration?

18 A Well, again we look at the maps. Designation
19 of the boundaries, but if you ask me if we identify and
20 spell out the 10 mile EPZ as shown in the Plan is acceptable,
21 there is not any specific planning criteria element that would
22 require this.

23 Q This is not anything that the RAC Committee
24 specifically discussed?

25 A (Witness Baldwin) I call your attention to

1 criteria element J.10.B, which requires maps showing
2 population distribution in and around the nuclear facility.
3 This shall be by evacuation areas, and we have found -- the
4 RAC found element J.10.B to be inadequate because the sub-
5 areas of these emergency planning areas defined in the
6 Plan which have been broken down in a table for areas F and
7 K, are not shown on a map in the Plan.

8 A (Witness Keller) In addition, there was some
9 discussion, which turned out later to be in error, about
10 the fifty mile EPZ -- so called 50 mile ingestion pathway
11 EPZ -- and the lack of maps in the Plan, and whether or not
12 it included Rhode Island, or should include Rhode Island,
13 since a previous version had included Rhode Island.

14 We have since ascertained that Rhode Island
15 does not belong in the 50 mile EPZ, so there was that
16 discussion in regard to size of EPZs, and configurations
17 of EPZs.

18 Q Let me refer you gentlemen to 10 CFR 5047, C-2.

19 A Do you have a copy, please?

20 (Judge Kline provides copy to witnesses)

21 Q Thank you, Judge Kline. C-2.

22 A (Witness McIntire) The page, please?

23 Q 427. Now, do you have that in front of you?

24 The regulation states that the exact size and configuration
25 of the EPZ shall be determined in relation to local response

1 -- emergency response needs and capabilities as they are
2 affected by such conditions as demography, topography,
3 land characteristics, access routes, and jurisdictional
4 boundaries, correct?

5 A (Witness Keller) That is correct.

6 Q Let me ask you this. Have you reviewed the
7 EPZ to determine how it is affected by -- lets take this
8 criterion by criterion. Jurisdictional boundaries?

9 A We refer you to our testimony -- to our testimony
10 on Contention 22, page 11 of our written testimony.

11 Q And I am not exactly quite sure what you are
12 saying.

13 A I believe we have testified in the written
14 testimony that the plume exposure, or ten mile EPZ, divides
15 the following villages: Port Jefferson, Zone Q -- would
16 you like me to continue reading our testimony or --

17 Q Is it your opinion that the EPZ as drawn has
18 taken into account jurisdictional boundaries?

19 A Yes.

20 A (Witness Baldwin) It is taken into consideration
21 the distribution of the population, yes.

22 Q I am talking about jurisdictional boundaries.

23 A (Witness Keller) It is considered. It is my
24 opinion it has considered them.

25 A (Witness Baldwin) They have considered it in

1 defining those boundaries, yes.

2 A (Witness McIntire) And we have testified to
3 that in our prefiled testimony.

4 Q How have jurisdictional boundaries been
5 considered. What you are stating to me, Mr. Keller, is that
6 you agree that various villages or population centers have
7 been split.

8 Now, I am asking you how that constitutes
9 consideration of jurisdictional boundaries.

10 MR. GLASS: I object. I have a grave concern
11 about the form of your question. Concern. Concern by who?
12 By the RAC? By the people who drafted it?

13 Is that what we are talking about. Or are we
14 talking about what is actually written in the Plan, what is
15 stated therein.

16 JUDGE LAURENSEN: That was a compound question,
17 so the objection will be sustained as to the form.

18 BY MR. McMURRAY: (Continuing)

19 Q How have jurisdictional boundaries been considered
20 in the Plan, Mr. Keller?

21 A (Witness Kowieski) Jurisdictional boundaries
22 were considered among other factors, and again, I refer you
23 to NUREG 0396. On page 17, on NUREG 0396, in Table 1, there
24 is a guidance on size of emergency planning zone. It states:
25 Plume exposure pathway, whole body, about ten mile radius.

1 And there is a note. Judgement should be used
2 in adopting this distance based upon consideration of local
3 conditions such as demography, topography, land character-
4 istics, access routes, and local jurisdictional boundaries.

5 So this not limited to jurisdictional boundaries.
6 It is one of the conditions, one of the considerations.

7 Q Thank you, Mr. Kowieski. I don't think that
8 was responsive to my question. I am asking you how jurisdic-
9 tional boundaries were considered in defining the EPZ?

10 MR. GLASS: I object to the question. You
11 are asking how they were considered in drawing or defining
12 the EPZ? That would be speculation on the part of these
13 witnesses as to what was done by the person who drafted the
14 particular document, and that is where my objection as to the
15 form goes, Your Honor.

16 JUDGE LAURENSEN: Are you asking as to whether
17 based upon the FEMA review they can ascertain this?

18 MR. McMURRAY: Yes, sir. Based on their
19 knowledge.

20 JUDGE LAURENSEN: Can you answer that question?

21 WITNESS KELLER: We cannot ascertain how the
22 Plan preparer considered jurisdictional boundaries.

23 BY MR. McMURRAY: (Continuing)

24 Q I take it -- just to do this quickly then, you
25 don't know how the Plan preparer considered demography,

1 topography, land characteristics, or access routes either,
2 right, Mr. Keller?

3 A (Witness Keller) That is correct.

4 Q Now, you have said that the EPZ boundary follows
5 recognizable landmarks, and therefore conforms to NUREG
6 0654 criteria, correct?

7 A (Witness Kowieski) That is correct.

8 Q Those recognizable landmarks include roads,
9 highways, railroads, et cetera, correct?

10 A That is correct.

11 Q What railroads does the EPZ follow?

12 A (Witness Baldwin) It says: e.g., which stands
13 for example.

14 Q Well, I take it that there are some railroads,
15 then, that you believe that the landmarks -- that the EPZ
16 follows.

17 A (Witness Keller) Recognizable boundaries, such
18 as, as an example of a recognizable boundary, a road would
19 be a recognizable boundary, a highway would be a recognizable
20 boundary, a railroad would be a recognizable boundary.

21 If you interpret that to mean that we said the
22 EPZ follows a railroad, then we have worded it sloppily,
23 I am sorry. I don't think we meant to imply that.

24 What we meant to imply is that a railroad would
25 be an easily recognizable boundary.

1 Q And in your opinion, Mr. Keller, would any road
2 be a recognizable boundary?

3 A It is the, 'any' that I have a problem with.
4 I would say any road, no. Any road would not be a recognizable
5 boundary.

6 Q What criteria would you use to determine whether
7 or not a road constituted adequate EPZ boundary line?

8 A A road of -- one, a public road would certainly
9 help. There are roads which are not public, particular
10 in my country.

11 (Laughter)

12 A (Witness Baldwin) We have said in our testimony,
13 too, this additional information that is provided here, these
14 landmarks should be narratively described in the text of
15 the public education materials.

16 Again, for example, such as brochures, wall
17 calendars with maps, telephone book inserts --

18 Q Wait a second. We are talking about roads. Mr.
19 Keller, what criteria do you have to determine whether or
20 not roads form adequate EPZ boundary lines?

21 A Most people in a mechanized society recognize
22 a road when they see one.

23 Q So you are saying that any public road forms
24 an adequate EPZ boundary line.

25 A Again, I would not characterize it as, 'any.'

1 I would think roads of -- depending on local conditions.
2 Some roads are very seldom traveled, some roads have heavier
3 traffic.

4 I would think that roads, reasonably well traveled
5 public roads that are marked would constitute a recognizable
6 boundary which would be adequate for the definition of an
7 EPZ.

8 Q Are any of you experienced with planning principles
9 for drawing jurisdictional boundaries such as zoning
10 boundaries, or land use boundaries, or anything like that?

11 A (Witness Kowieski) Years ago, when I was in the
12 private sector, I used to be involved in work of this nature.

13 Q Wouldn't you agree, Mr. Kowieski, that in drawing
14 a recognizable boundary, it is advantageous to have different
15 land use characteristics on either side of that boundary?

16 A I don't understand your question.

17 A (Witness McIntire) Yeah. What do you mean
18 by land use characteristics?

19 Q For instance, industrial on one side and residential
20 on the other?

21 A (Witness Kowieski) What happens if there is
22 no industry.

23 (Multiple speakers)

24 JUDGE LAURENSEN: We are going to have to go back
25 to one person talking at a time, though. I think you were

1 talking at the same time he was answering.

2 BY MR. McMURRAY: Are you aware of any planning
3 principles, Mr. Kowieski, which define --help define the
4 adequacy of boundary lines?

5 A As a matter of fact, we have suggestion from
6 Mr. McIntire. I have been involved also in another program,
7 a national flood insurance program, where you develop the
8 flood inundation maps to simplify.

9 So, what you do, you designate the area that
10 would be subject to inundation, potential inundation by
11 a hundred year flood.

12 In this case, obviously you deal with a river
13 or ocen, and let's take a river. You develop a cross
14 section. You -- after you develop you draft the cross
15 section, put it on a computer, and you predict, using the
16 hydrology, the amount of water that is flowing down stream,
17 you develop and you predict the water heights, and based
18 on the water heights and available cross sectional data,
19 you will determine how far water will flow, and you will
20 draw the boundary, the outlines of the flood. Let's say
21 hundred year flood, five hundred year floods.

22 A (Witness McIntire) Let me supplement that
23 with a little background information. This mapping program
24 is the largest mapping program in the world. My office
25 has these local maps, and they have done community by community

1 here in New York State, for virtually all flood prone
2 communities in the State, and I think almost all on Long
3 Island.

4 After each map is produced, it is sent to the
5 community, and then members of my staff go out to the
6 communities and explain to the local officials and the
7 general public, the maps, what is shown on the maps, what
8 is indicated on the maps, what the maps indicate.

9 So, I think that we have a fair amount of
10 experience in mapping.

11 MR. McMURRAY: Judge Laurenson, I would like
12 to move to strike Mr. McIntire's response. I understand
13 Mr. Kowiesni's was at least marginally responsive, but
14 Mr. McIntire's was far beyond the scope of my question.

15 MR. GLASS: He had inquired into the background
16 or experience that these witnesses have with mapping and
17 with familiarity with topographical features, and I think
18 that that was certainly responsive to that.

19 JUDGE LAURENSEN: Motion is denied.

End 10. 20
Sue fols.

21

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#11-1-SueT₁

BY MR. MC MURRAY: (Continuing)

2 Q Mr. Kowieski, is it your opinion that land use
3 characteristics are not relevant in determining the -- how
4 an EPZ should be defined?

5 A (Witness Kowieski) Land use characteristic?
6 It could be helpful but is not an only requirement.

7 Q Let me ask you this, how do you believe demography
8 has been taken into account in defining the EPZ?

9 A Again, as Mr. Keller already testified, we don't
10 know how it was defined and taken into consideration.

11 Q Well, I'm asking how do you think that the
12 EPZ meets the criteria set out in 50.47.C?

13 A (Witness McIntire) We are here to testify on
14 the plan review, not on the drawing of the EPZ, is my
15 understanding.

16 Q Well, you submitted testimony on the drawing
17 of the EPZ, correct?

18 A We described the EPZ.

19 Q And you also say it conforms to NUREG 0654
20 criteria, correct?

21 A That was our judgment during the planning review.

22 Q I'm asking you how it conforms -- are you saying
23 that those criteria as set out in the 0654 are different
24 from 50.47.C.2?

25 A (Witness Kowieski) Give us a minute.

#11-2-SueT

1 (The witnesses are conferring.)

2 Mr. Baldwin will answer your question.

3 (Witness Baldwin) What question?

4 (Laughter.)

5 (Witness Keller) For the record, the 0654 require-
6 ments on EPZ and the reference 50.47 are the same.

7 That was the last question I think.

8 Q Thank you, Mr. Keller. Now, in conducting your
9 review did you attempt to determine whether or not the EPZ
10 met these particular criteria? And I don't have to read
11 them through again.

12 Mr. Keller? You are pointing to somebody else.

13 A (Witness Keller) Mr. Baldwin is going to ad-
14 dress this.

15 (Witness Baldwin) I think. Yes. We considered
16 in the RAC review this ten mile stipulation.

17 Q Well, I'm not talking about the ten mile stipula-
18 tion. I'm talking about the other factors to be considered
19 such as demography, topography, land characteristics, access
20 routes and jurisdictional boundaries.

21 Were those particular local conditions considered
22 in reviewing the adequacy of the EPZ?

23 A Yes. And I considered them.

24 Q Now, please tell me how you considered demography
25 and how that was taken into account in defining the EPZ?

#11-3-SueT 1

2 A Well, in doing the plan review, since that is
3 what we are talking about right now, I specifically looked
4 at the table with the population distributions in it. I
5 was very interested in the map which showed those planning
6 areas.

7 And in my particular review, I raised this issue
8 that with respect to areas F and K I believe it is, that
9 the table broke them down and that the map did not, to
10 show which is required by NUREG. That was a particular
11 concern, because if in the course of making a protective
12 action recommendation that could involve evacuation and
13 LERO made the recommendation to affect only part of F or
14 part of K, the decision makers would be unable to determine
15 how many people that affected without a map. They would
16 have to go to a particular table.

17 Those are the considerations that were involved
18 in the plan review.

19 Q Mr. Baldwin, when the regulation says that a
20 condition such as demography must be considered in defining
21 the EPZ, what is meant by that? How must -- how should
22 demography be taken into account? What sort of things is
23 the planner looking for?

24 Mr. Baldwin?

25 A Well, I, as a --

(The witnesses are conferring.)

#11-4-SueT 1

(Witness Keller) My reading of the regulation, which is an NRC regulation and not a FEMA regulation --

2
3 Q Excuse me, Mr. Keller. I have directed a
4 question to Mr. Baldwin. You are certainly free to sup-
5 plement his response.

6 A (Witness Baldwin) Could I have you reask the
7 question?

8 Q With respect to the requirement of 5047.C.2
9 that one of the local conditions that must be looked at
10 is demography, what does that mean? In other words, what
11 demographic factors should be taken into account in defin-
12 ing an EPZ?

13 A Population size, distribution and characteristics.

14 Q Okay. And then once those are known, how does
15 one draw the line?

16 A One uses their best judgment to conform to the
17 requirement for a ten mile EPZ.

18 Q What is it about population size that helps one
19 define the EPZ?

20 A The population that would be affected by a pro-
21 tective action recommendation.

22 Q Talking about -- in talking about drawing the
23 roughly ten mile EPZ, what is it about the population size
24 that helps you draw that boundary line?

25 A Well, you don't want to affect more people than

#11-5-SueT

1 it would be necessary; with particular reference to an
2 evacuation recommendation it's better to have that recom-
3 mendation affect only those people at risk.

4 Q At risk, meaning within roughly ten miles?

5 A Yes, using the criteria as specified in 0396
6 and 0654 which have been developed by EPA and NRC.

7 Q Well, let's take an example. Let's say that
8 there is a population center that is a little over ten miles
9 from the EPZ, are you saying -- how are you saying that's
10 treated?

11 A (Witness Keller) It's basically a judgment.
12 In some plans, population centers at, for example, ten point
13 one miles are included in the "ten mile EPZ." In other
14 plans, the population centers at nine point five miles
15 have been excluded from the "ten mile EPZ."

16 It is a judgment that is made on a case by case
17 basis, which is the recommendation I believe of the regula-
18 tion.

19 Q So, I think what you are saying, Mr. Keller, then
20 is that the EPZ boundary line tries to incorporate whole
21 population centers and not divide them, correct? And it
22 does so by going in and out.

23 A Not necessarily. The critical thing about an
24 emergency planning zone is that the population within the
25 zone recognize that they are within the zone or outside of

#11-6-SueT

1 the zone. As we have said, the risk is a graded risk. It
2 does not come to some point and fall off to zero.

3 If the risk on one side of the street has a
4 given value, the risk on the other side of the street is
5 almost the same value. Okay.

6 The critical issue is to draw the line, as you
7 said, at some point at which the people at risk, the
8 residents at risk, can recognize. I think it is reasonable
9 to assume that no matter where you drew the line, at whatever
10 distance from the site you drew the line, if a protective
11 action recommendation were to be made, to take a protective
12 action up to that line, people on the other side of the
13 street would voluntarily take the same protective action.

14 (Witness Baldwin) If I could follow that up.
15 That is why we have stated in our written testimony that
16 these land marks should be narratively described in the text
17 of the public education brochures and public information
18 so that one can determine where they reside with respect to
19 the boundaries of that EPZ.

20 (Witness McIntire) And I would like to make a
21 further comment on Mr. Keller's comment about reasonableness.

22 For example, at the Indian Point EPZ, a conscious
23 decision was made by the State not to include the
24 Ossinging Correctional Institution. That's about nine
25 point six miles if I remember correctly from Indian Point.

#11-7-SueT 1

2 But because of the type of facility it is, the decision was
3 made again to go to sheltering rather than to evacuation.

4 MR. MILLER: Judge Laurenson, I assume that our
5 morning time period is just about up; is that correct?
6 I am asking because I have a couple of wrap-up matters from
7 the documents that were talked about yesterday, including --
8 I would like to introduce some of the documents into the
9 record.

10 JUDGE LAURENSEN: Okay. This is the time that
11 we ordinarily take our luncheon recess, so please proceed.

12 MR. MILLER: First, Judge Laurenson, I have a
13 very limited number of questions regarding the documents
14 that were provided by Mr. Glass yesterday when I had con-
15 cluded my questions. And I do not plan to introduce these
16 into the record. I just want some clarifying questions.

CROSS EXAMINATION

BY MR. MILLER:

17
18 Q Mr. McIntire, I will direct these to you.

19 A (Witness McIntire) Excuse me. I don't have a
20 copy of them. Could I borrow someone's?

21 Q I'm talking about the July 9, July 11 and July 12,
22 1984 letters.

23 A That's what I'm talking about.

24 (Mr. Glass furnished the witness with letters.)

25 I have them.

XXXX

#11-8-SueT 1

2 Q Okay. Mr. McIntire, in the July 12, 1984 letter
3 from Mr. Speck to Mr. Petrone, there is a statement in
4 the middle of the letter which says, "On June 10, 1984,
5 FEMA received a request from NRC to conduct a full RAC
6 review of Revision 4 of the LILCO plan."

7 Do you see that?

8 A Yes, I do.

9 Q Was the request made of FEMA on June 10, 1984
10 to review Revision 4 of the LILCO plan?

11 A No. That's incorrect. That should have been
12 July.

13 Q July 10, 1984?

14 A It's my understanding it is supposed to be
15 July 10.

16 Q To your knowledge, Mr. McIntire, FEMA had not
17 received a Revision 4 to the LILCO plan prior to -- well,
18 why don't you tell me?

19 To your knowledge, when did FEMA receive Revision
20 4 to the LILCO plan?

21 A (The witnesses are conferring.)

22 (Witness Kowieski) I don't remember exactly.
23 It was a week, a week and a half ago.

24 Q Roughly around July 4th?

25 A (Witness McIntire) Yes.

Q The only other question I wanted to ask about

#11-9-SueT 1

2 these three letters, Mr. McIntire, I take it from my read-
3 ing of the July 11, 1984 letter from Mr. Krimm to Mr.
4 Jcrdan of the NRC that it is FEMA's position that a full
5 RAC review of Revision 4 could not be completed and pro-
6 vided to the NRC prior to November 15, 1984; is that
7 correct?

8 A Yes. The letter states for these reasons we
9 believe that we cannot furnish a finding on Revision 4
10 of the LILCO Transition Plan earlier than November 15,
11 1984.

12 Q And you were involved in that decision, sir?

13 A I was involved in discussions leading up to the
14 drafting of this letter.

15 Q You were involved in deciding that it would take
16 until November 15, 1984 to provide a RAC review of Revision
17 4; isn't that correct?

18 A I provided information about the workload and
19 other priorities within the Region, and I made recommenda-
20 tions regarding the time frame for the completion of the
21 review.

22 MR. MILLER: Thank you. Judge Laurenson, at
23 this time the County would like to offer certain of the
24 documents from yesterday into evidence.

25 Let me just give the numbers. We would like
to move into evidence SC-EP-79, 81, 82, 83, 87 and 90.

#11-10-SueT 1

2 JUDGE LAURENSEN: And just to clarify the record,
3 the County is not offering in evidence Suffolk County
4 Exhibit EP-76 through 78, 80, 84 through 86, or 88 and 89;
5 is that correct?

6 MR. MILLER: That's correct.

7 JUDGE LAURENSEN: Is there any objection to
8 the documents that the County is offering in evidence
9 being received?

10 MR. GLASS: If we could have just one minute,
11 Your Honor.

12 (Mr. Glass is going through documents.)

13 The only concern I have is with Document 87,
14 because there seems to be no foundation. The witnesses
15 were not aware of who had drafted this particular document
16 nor did they seem to have much input into it. And there
17 were some questions asked about certain portions, and those
18 are already in the record.

19 But as to the remaining portion of the document,
20 I just don't know where there is a foundation. And I have
21 not an opportunity to look to see whether they are accurate,
22 the rest of the statements, nor has there been any testimony
23 whether this material is accurate or not.

24 MS. MC CLESKEY: LILCO also objects to the
25 admission of EP-87 basically for the same reasons Mr. Glass
just stated. Mr. McIntire stated that he had seen it during

#11-11-SueT 1

2 preparation of the FOI request responses, but no one on the
3 panel who had even prepared the chronology, and there was
4 no indication that any of these people have relied on it
5 in any way in preparing either the RAC report or their
6 testimony.

7 MR. MILLER: Judge Laurenson, with respect to
8 this document I offer it into the record because I think
9 it sets in context very well the involvement of FEMA in
10 the case. In addition, although it's true that Mr. McIntire
11 seemed to be the only person on the panel familiar with
12 the document, I believe I established that no one on the
13 panel had any reason to disagree with the chronology that
14 is set forth in this document.

15 JUDGE LAURENSON: What does it prove, though?

16 MR. MILLER: I think it sets forth FEMA's involve-
17 ment with the Shoreham plant. Certain particular issues
18 go to the RAC review process in this document. It sets in
19 context the involvement of FEMA as an agency of the govern-
20 ment involved in the review of the LILCO plan and with the
21 Shoreham plant.

22 JUDGE LAURENSON: But it has to be relevant to
23 some decisional aspect of the case to be received in
24 evidence. And I don't see, on the face of it, what the
25 relevance is to any particular contention that the County
has offered.

#11-12-SueTj

2 MR. MILLER: There are portions of the document
3 that go to the RAC review process. I didn't try to go
4 through and glean out particular portions. I will be
5 glad to point those out if that makes a difference to the
6 Board's ruling.

7 Basically, I left the document intact without
8 pulling it apart and offering Pages 3 or something like
9 that. Page 3 has discussion about the review of Revision 0
10 of the plan. There is discussion also on Page 3 as to
11 FEMA's position regarding that review, the earlier review
12 of the LILCO plan.

13 There is discussion on Page 7 regarding the RAC
14 review of the LILCO plan. I simply didn't try to go through
15 and just pull apart the pages.

16 JUDGE LAURENSEN: Are there any objection to
17 any of the other exhibits that have been offered?

18 MR. GLASS: As to 79, 81, 82, 83 and 90, no,
19 there are not.

20 MS. MC CLESKEY: LILCO has no objection other
21 than to 87.

22 JUDGE LAURENSEN: Does the State have any
23 objections?

24 MR. ZAHNLEUTER: No objection to any of the
25 exhibits.

(The Board members are conferring.)

#11-13-SueT 1

JUDGE LAURENSEN: The objection to Suffolk County Exhibit EP-87 is sustained. All other exhibits are received in evidence.

For the record, we will receive into evidence Suffolk County Exhibits EP-79, 81, 82, 83 and 90.

(The documents previously marked for identification as Suffolk County Exhibits EP-79, 81, 82, 83 and 90 were received in evidence.)

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~~Kowieski #2~~
SC EP 79

Federal Emergency Management Agency

Region II

26 Federal Plaza

New York, New York 10278

23 NOV 1983

MEMORANDUM FOR: Frank P. Petrone, Regional Director
Philip McIntire, Chief
Natural and Technological Hazards Division
Roger B. Kowieski
FROM: Roger B. Kowieski, Chairman
Regional Assistance Committee
SUBJECT: Review of the LILCO Plan for the Shoreham
Nuclear Power Station

On September 28, 1983, the Federal Emergency Management Agency published in the Federal Register the proposed rule, 44 CFR 350 entitled "Review and Approval of State and Local Radiological Emergency Plans and Preparedness". This rule became effective as of October 28, 1983.

This rule establishes policy and procedures for review and approval by the Federal Emergency Management Agency (FEMA) of State and local emergency plans and preparedness for coping with the offsite effects of radiological emergencies which may occur at commercial nuclear power facilities.

Specifically, this rule under 350.1, Purpose, states:

"The purpose of the regulation in this part is to establish policy and procedures for review and approval by the Federal Emergency Management Agency (FEMA) of State and local emergency plans and preparedness for the offsite effects of a radiological emergency which may occur at a commercial nuclear power facility. Review and approval of these plans and preparedness involves preparation of findings and determinations of the adequacy of the plans and capabilities of State and local governments to effectively implement the plans."

Furthermore, 350.5, Criteria for Review and Approval of State and local Radiological Emergency Plans and Preparedness states:

"(a) Section 50.47 of NRC's Emergency Planning Rule [10 CFR Parts 50 (Appendix E) and 70 as amended] and the joint FEMA-NRC Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants (NUREG-0654/FEMA-REP-1, Rev. 1, November 1980) which apply insofar as FEMA is concerned to State and local governments, are to be used in reviewing, evaluating and approving

State and local radiological emergency plans and preparedness and in making any findings and determinations with respect to the adequacy of the plans and the capabilities of State and local governments to implement them. Both the planning and preparedness standards and related criteria contained in NUREG-0654/FEMA-REP-1, Rev. 1 are to be used by FEMA and the NRC in reviewing and evaluating State and local government radiological emergency plans and preparedness. For brevity, only the planning standards contained in NUREG-0654/FEMA-REP-1, Rev. 1."

Since 44 CFR 350 as well as NUREG-0654, FEMA-REP-1, Rev. 1 provides only guidance on review and approval of the plans developed by the State and local governments it was necessary for us to make certain assumptions in reviewing the Shoreham plan developed by the utility (LILCo).

According to this plan, LILCo intends to deploy an organization (Local Emergency Response Organization, LERO) comprised of its employees to perform duties normally performed by the local authorities.

~~In reviewing the LILCo transition plan entitled "Local Offsite Radiological Emergency Response Plan for the Shoreham Nuclear Power Station the following assumptions have been made:~~

- ~~• LILCo will be given the appropriate legal authority to assume management and implementation of an offsite emergency response plan.~~
- ~~• All LERO personnel identified in the plan will substitute for response by ~~the State and local authorities~~ in conducting an radiological emergency response mission for the Shoreham Nuclear Power Station at this time.~~
- This LERO plan does not reference the New York State Radiological Emergency Preparedness Plan (July, 1981) and it has been submitted without a State Site Specific Plan. Hence, there are no provisions stated or implied for participation by New York State.

These assumptions are necessitated by the following:

- By resolution 1196-83, adopted on February 17, 1983, the Suffolk County Legislature determined that the County of Suffolk would not participate in offsite emergency Planning for SNPS.
- Governor Mario Cuomo's position that "a preparedness plan which relies solely and entirely upon private utility workers cannot (emphasis added) provide the degree of security necessary to conclude that the public health and safety of the region's residents are adequately protected." See Governor Cuomo's letter to NRC Chairman Palladino of October 4, 1983 (attachment 1).

- Section 1.4 "Legal Authority; Establishment of a Local Emergency Response Organization" from the LILCo Transition Plan (attachment 2).

~~I intend to use the above assumptions while consolidating the comments from various RAC members and then deliberating them at a meeting of the Regional Assistance Committee.~~

If you find I need to modify or change the assumptions to have a better representation of the agency's policy, please advise me at your earliest convenience.

SC EP 81



Federal Emergency Management Agency

Region II 26 Federal Plaza New York, New York 10278
JAN 24 1984

MEMORANDUM FOR: Samuel W. Speck, Associate Director
State and Local Programs and Support

FROM: *[Signature]*
Frank P. Petrone, Regional Director

SUBJECT: Shoreham Plant Review

I appreciated the opportunity to meet with you on January 19 to discuss the implications of the recent events on the RAC review of the LILCO Transition Plan for Shoreham. As you know, Region II is utilizing a substantial amount of staff time reviewing Revision 2 and 3 of this plan.

On Tuesday, January 17, 1984, Governor Mario M. Cuomo's Special Counsel appeared before the ASLB in the Shoreham Nuclear Plant proceedings and on January 23, 1984 I received a letter from Mr. Palomino, copy attached.

The State of New York stated its opposition to the approval of LILCO's Transition Plan for off-site emergency preparedness for Shoreham. The State raised three issues in this filing with the Board.

(1) It is the position of the State of New York that LILCO lacks the legal authority to implement its Transition Plan.

(2) The State of New York further stated that the ASLB does not have jurisdiction to rule on contentions 1 through 10 (legal issues) presently before the Board. It is the position of the State of New York that any ruling by the ASLB on this issue would violate the rights reserved to the State under the tenth amendment of the U.S. Constitution, and any challenge to the State's interpretation of the contentions related to LILCO's legal authority must be heard in a State Court.

(3) The last point made by the Governor is that the State has concluded that the LILCO Transition Plan is inadequate and not capable of implementation. Therefore, the Governor has stated that the Plan cannot assure the reasonable protection of the public in the event of a nuclear accident.

These three points have important ramifications that should be considered before the completion of the RAC review of the LILCO Transition Plan. It is counsel's opinion that FEMA should not take any position relative to the forum in which challenges to the State's position may be heard.

As you know I, and the agency, have consistently raised the point that there is a need to resolve the issue of LILCO's legal authority, and that the State was the appropriate organization to resolve this question. The State has now made its position known on this matter. FEMA, I believe, should also give careful consideration to the Governor's statement that the Plan cannot reasonably assure the protection of the public.

The issue of most direct concern to this office relates to the legal issues as stated in the contentions, and as referenced by the Governor's representative in his prepared remarks and letter to me. In our present review of the LILCO Transition Plan, the assumption was made that the utility has the legal authority to carry out the Plan as presented. This assumption was made in order to allow the RAC members to proceed with the technical review of the Plan until such issues were addressed and resolved. If we continue our review, in light of the Governor's stated position, FEMA will have no alternative but to cite the lack of LILCO's legal authority to implement the Plan and to finalize the review based on the lack of legal authority.

In light of these recent developments and, after consultation with the RAC Chairman, Regional Counsel and Chief, Natural and Technological Hazards Division, we believe this RAC review of the LILCO Transition Plan for Shoreham may be counter productive to all parties concerned. Therefore, we question whether the review should continue. Your early response will be greatly appreciated.

SC EP8

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20545



January 26, 1984

Mr. Samuel W. Speck
Associate Director
State and Local Programs and
Support
Federal Emergency Management Agency
Washington, DC 20472

Dear Mr. Speck:

This is in response to your letter of January 25, 1984, inquiring as to whether FEMA should continue, modify or terminate its review of the LILCO off-site emergency plan for the Shoreham facility. In that FEMA's review will be an essential ingredient in the Licensing Board's ultimate determination on the adequacy and implementability of LILCO's proposed emergency plan, I would request that FEMA continue its review of the plan. In addition, because of the schedule previously set by the Licensing Board in the ongoing Shoreham proceeding, I would appreciate every effort you could make to insure that FEMA's review of the LILCO plan is completed by the previously agreed-upon date of February 1, 1984.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "William J. Dircks".

William J. Dircks
Executive Director for Operations

5CEP83



Federal Emergency Management Agency

Washington, D.C. 20472

FEB 03 1984

MEMORANDUM FOR: Frank P. Petrone
 Regional Director
 Region II (New York)

FROM: Samuel M. Speck
 Associate Director
 State and Local Programs
 and Support

SUBJECT: Shoreham Plan Review

This is in response to your memorandum of January 24, 1984, which questioned whether the Regional Assistance Committee (RAC) review of the Long Island Lighting Company (LILCO) Transition Plan for Shoreham should continue.

On January 25, 1984, we asked the Nuclear Regulatory Commission (NRC) whether in light of Governor Cuomo's interpretation on the legal authority issue, the Federal Emergency Management Agency (FEMA) should continue, modify, or terminate the NRC-requested review of the LILCO Plan. On January 26, 1984, NRC responded by requesting us to continue the review. A copy of their response is attached.

Should you have any questions about this, please feel free to call.

Attachment
As Stated

Name of Reviewer	Agency	Title	Since	Reporting to (Title)	How long individual has been with RAC	
					Years	Months
Herbert Fish (Official RAC member)	DOE	DOE RAC member	08-14	Director, Radiological Controls, Office of Nuclear Safety	2	4
Paul Lutz (Official RAC Member)	DOT	Regional Emergency Transportation Representative, Regions I and II	08-14	Regional Emergency Transportation Coordinator	5	0
Ronald E. Bernacki (Official RAC Member)	FDA	Regional Radiological Health Representative	08-13	Assistant Regional Director for Compliance, 04-14	5	0
Robert J. Bares (Official RAC Member)	NRC	Technical Assistant, Division of Engineering and Technical Programs	08-14	Director, Division of Engineering and Technical Programs SES	0	7
Cheryl Malina (Official Reviewer)	USDA	Management Analyst	08-12	George E. Richardson (Official RAC member) Director, Office of Emergency Planning, 04-15	4	2
Joyce Feldman (Official Reviewer)	EPA	Health Physicist	08-12	Paul A. Glavinia (Official RAC member) Regional Radiation Representative 04-14	0	5
Roger S. Kordaski (Official RAC member)	FSNA	Chairman, Regional Assistance Committee	04-14	Philip McIntire Chief, Natural and Technological Hazards Division	2	6

FSNA'S CONTRACTORS ASSISTING RAC CHAIRMAN

NAME	ORGANIZATION	How long individual has been under contract with FSNA	
		Years	Months
Joseph H. Keller	Idaho Nuclear Engineering Laboratory	4	10
Thomas E. Balchin	Argonne National Laboratory	2	3

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2 JUDGE LAURENSEN: Is there anything else on
3 behalf of the County at this time?

4 MR. MILLER: Judge Laurenson, are we being given
5 time to continue with our cross-examination, because we
6 certainly would welcome that opportunity?

7 JUDGE LAURENSEN: I think under the scheduling
8 that we have set, after we take our lunch break we are
9 going to come back and hear the cross-examination of the
10 State and of LILCO. We will allow FEMA to conduct redirect
11 examination.

12 And to the extent that there is still time re-
13 maining today we will continue with the questioning of
14 the FEMA panel. We will specifically indicate that we
15 will not hear the LILCO testimony on Contention 92 today.
16 But we will take whatever time is available this afternoon
17 to question the FEMA witnesses.

18 To the extent that the County may not have been
19 able to inquire into certain areas or contentions on the
20 time that has been given, we will not hold to a strict rule
21 on recross examination on that.

end #11

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1 MR. GLASS: It is my understanding that once
2 FEMA would complete its redirect, we would then go
3 back to the county starting its recross?

4 JUDGE LAURENSEN: Yes.

5 MR. GLASS: Would there be any objection to
6 my just reserving my redirect until, if I can give the
7 Board a fair estimation and then proceeding in that
8 manner?

9 JUDGE LAURENSEN: Unless there is an
10 objection, that is acceptable to us.

11 MR. MILLER: We have no objection.

12 JUDGE LAURENSEN: Let's proceed on that basis.

13 MR. MILLER: Judge Laurenson, I assume what
14 you are saying is that once there has been an opportunity
15 by New York State and LILCO, then, to ask questions of the
16 panel, then we will go back to the county, and we will
17 be able to inquire into areas that we have not been
18 able to inquire into yet with these witnesses.

19 Is that correct?

20 JUDGE LAURENSEN: That is what I said.

21 MR. MILLER: Thank you.

22 JUDGE LAURENSEN: Is there an objection to
23 that?

24 MS. MC CLESKEY: I have a question, Judge
25 Laurenson. Do you anticipate that the other parties will

1 go around again this afternoon following the county's
2 resumption of questioning; if they ask about issues
3 that they haven't asked about previously, I have a
4 concern that we may have additional questions.

5 JUDGE LAURENSEN: I am sure that is true, but
6 on the basis of the representations made to us by the
7 county so far, my understanding is that there isn't
8 going to be any time for anyone else to conduct any
9 questioning this afternoon.

10 However, since all of these witnesses will
11 be back in August, I think we will just have to work
12 that into the schedule at that time.

13 MR. GLASS: I would have an objection to
14 that, Your Honor. You have encouraged the parties
15 throughout to negotiate their own agreements.

16 FEMA, in good faith, entered into an
17 agreement, and there is such a letter of agreement, I
18 think, on file with the Board that particular issues
19 were going to be addressed at this time and that the
20 other issues, remaining issues, were going to be addressed
21 at the next appearance, and that it was not an open-ended
22 forum.

23 I would be very hesitant to enter into any
24 more agreements such as this if I am to find at the
25 last minute I am going to be -- the agreements are going to

1 be mooted.

2 JUDGE LAURENSEN: The problem is, you made
3 an agreement, but that didn't have anything to do with
4 the availability of time. You may have set a schedule,
5 but if, in fact, it took more than one week to complete
6 the questioning of the witnesses on this testimony and
7 you are not going to make them available at any time
8 until August 14, then we have to continue with what
9 we have before us now.

10 MR. GLASS: Based on your Honor's previous
11 rulings -- and I am not looking to hold the county
12 to strict limits -- but based on the Board's previous
13 rulings and what I feel is the Board's intention to
14 bend over backwards to have accommodated the county
15 recently, we have limited our objections in a lot of
16 areas where the county has been quite repetitive.

17 The county has repeatedly asked questions of
18 the witnesses after they have responded and asked it
19 three or four times because they wanted to use a particular
20 word.

21 I think in some cases they have just worn
22 the witnesses down where the witnesses could not answer
23 a yes or no, gave their explanation three or four times
24 on the record, and then finally just to be rid of
25 the question, finally said yes or no, whatever it was.

1 I think this is not helping the Board. It
2 is not helping the parties. I feel quite sorry for
3 the parties who have to write findings in this particular
4 matter.

5 JUDGE LAURENSEN: How about the Board?

6 Let me just clarify what I thought I had said
7 before.

8 That is, that under the schedule that we have
9 talked about for this afternoon, that following the
10 rights to New York, to LILCO, and to FEMA, if they
11 wish to exercise them, to question this panel of
12 witnesses, we would turn the questioning back to
13 Suffolk County for the rest of today. I haven't said
14 anything beyond today.

15 And then I have indicated, in response to
16 Ms. McCleskey's question, that she wanted to be able
17 to follow up on any questions that may be asked by
18 the county on this recross, if that would be permissible,
19 and I indicated that we would build that into the schedule.

20 I have not indicated at any time that the county
21 would be given any right to question these witnesses
22 about this testimony after today. And that is all we
23 have said up to this point.

24 If the county wishes to request additional time,
25 that is another matter that I think we have to hear under

1 the procedures that we set forth on Tuesday morning.

2 MR. GLASS: My only concern is that the
3 issues that were designated for this week would be closed
4 at the end of this week. That is my concern.

5 JUDGE LAURENSEN: It would be nice if we can
6 do that. I don't know that we can make any such guarantee
7 at this time. We will have to see where we are by the
8 end of today.

9 With that, we will take our luncheon recess
10 and we will reconvene at 2:00 p.m., begin the
11 questioning by Mr. Zahnleuter.

12 (Whereupon, at 12:45 p.m., the hearing was
13 recessed, to reconvene at 2:00 p.m., this same day.)
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AFTERNOON SESSION

(2:03 p.m.)

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3 JUDGE LAURENSEN: We are back on the
4 record now.

5 Before we begin the cross-examination of
6 the panel by Mr. Zahnleuter for the State of New York,
7 I had just one question of clarification for the
8 record.

9 That is, that Mr. Kowieski has made a point during
10 this testimony of the fact that the FEMA RAC committee
11 did not review or compare the prior Argonne evaluation
12 of Rev 0 in conjunction with the RAC review of Rev 3,
13 and yet on the RAC committee and on this panel of
14 witnesses, Dr. Baldwin, who is employed by Argonne, which
15 did the review of Rev 0 back in June, I believe, of
16 last year -- I thought that perhaps we should have an
17 explanation as to the role played by Dr. Baldwin in
18 this RAC review and his contact with Argonne National
19 Laboratory and whether or not there is any similarity
20 or whether he had any consultation or what the precise
21 procedural arrangement is in conjunction with Argonne's
22 position on this RAC committee.

23 WITNESS BALDWIN: Judge Laurenson, to give
24 you a little background, I am employed by Argonne
25 National Laboratory, and I am located here in New York.

1 And last summer, I believe it was in June of last
2 year that they did this review for -- we have a contract.
3 Argonne National Laboratory has a contract with FEMA
4 headquarters to do radiological emergency preparedness
5 support work with FEMA for all regions of the country.

6 And I, in this location, have worked with
7 Region II out of New York and Region I in Boston.

8 I was not in Illinois last year when they
9 did the other RAC review, except for a short visit out
10 there on another matter.

11 MR. GLASS: Dr. Baldwin, did you misspeak?
12 It was not a RAC review.

13 WITNESS BALDWIN: That is true. I misspoke.

14 The review that was done by Argonne for FEMA
15 was done for headquarters on revision 0.

16 JUDGE LAURENSEN: Do you mean headquarters of
17 Argonne or headquarters of FEMA?

18 WITNESS BALDWIN: Headquarters of FEMA.

19 JUDGE LAURENSEN: By the main office of
20 Argonne which is in Illinois?

21 WITNESS BALDWIN: That's right. That's right.
22 By a group of people in Illinois that reviewed revision 0.
23 And as I say, I was not involved at all in that
24 technical review.

25 Later, when Region II was requested by FEMA

1 headquarters to review the -- to do a RAC review,
2 Mr. Kowieski and Mr. McIntire asked me to be involved
3 in that process.

4 I did not ever review -- they asked me not
5 to review the other Argonne comments so that I wouldn't
6 be influenced by what was contained in those comments,
7 and I then conferred with my superior in Illinois,
8 Mr. Terry Sorrels (phonetic), Dr. Terry Sorrels, and
9 advised him of this, and he said, yes, that is absolutely
10 right, we want no conflict between the two.

11 And as a result, I have never reviewed -- I
12 have never read those comments. I have them -- I have
13 seen them, but I have never read them.

14 JUDGE LAURENSEN: Let me just follow up by
15 asking Mr. Kowieski why the RAC committee wouldn't review
16 those comments at some point during its deliberations?

17 WITNESS KOWIESKI: The RAC committee, as a
18 group of experts coming from federal agencies, we have
19 expertise to review the plan, all aspects of the plan.

20 We felt, in Region II, that to provide for
21 a full independent review, the RAC should not go back
22 to Argonne comments and read them or compare them so
23 they won't be in any way influenced by initial review
24 performed by Argonne.

25 At a later date, we felt it was irrelevant.

1 And the reason I am saying it was irrelevant to go back
2 to Argonne review, because it was already three reiterations
3 of the plan. What Argonne did reviewed revision 0.
4 Since that time three changes took place, three revisions
5 took place.

6 So in our opinion, it was very little benefit
7 for us to go back and see and look for comments on
8 revision 0 since already three reiterations, three revisions
9 took place since that time.

10 JUDGE LAURENSEN: Thank you.

11 At this point we will turn the questioning
12 over to Mr. Zahnleuter for the State of New York.

13 CROSS-EXAMINATION

14 BY MR. ZAHNLEUTER:

15 Q Dr. Baldwin, in your resume you describe
16 yourself as a demographer/economist.

17 Could you describe what kind of occupation
18 that is?

19 A (Witness Baldwin) I have done economic and
20 demographic studies for engineering projects. I have
21 worked for Argonne National Laboratory since 1972,
22 from 1972 to 1979, doing demographic and sociological
23 work as it relates to environmental and energy issues.

24 After leaving the laboratory I moved east
25 and worked with two engineering consulting firms doing

1 demographic and economic feasibility projects, analyses
2 for civil works projects. And that work entails analyses
3 of population impacts and growth changes as it relates
4 to employment developments, job developments, and changes
5 in local economies.

6 Q Under the heading of professional experience,
7 you state that your present position is environmental
8 systems engineer.

9 Do you hold any educational degrees or do
10 you have any experience in the field of engineering?

11 A No, with the exception of the experience that
12 I have had working with two engineering firms and the
13 association I have had with a number of engineers at
14 Argonne National Laboratory.

15 The clarification on that title is that that is
16 my job classification title at the laboratory.

17 Q Mr. Keller, I note that the RAC report
18 contains a rating, which I will call adequate provided
19 that or as called "provisionally adequate" sometimes.

20 Do you understand the rating I mean?

21 A (Witness Keller) Yes.

22 Q Were any of these provisionally adequate
23 ratings decided upon at the January 20th RAC meeting?

24 A My recollection is that there were -- I don't --
25 some of them were decided upon at the January 20 meeting.

1 I believe some were added later.

2 Q Do you have an idea of the proportion which
3 were added later?

4 A I do not, no.

5 Q Would it be more than half?

6 A I would think less than half.

7 Q Do you know how the adequate provisional
8 ratings came to be included in the final RAC report?

9 A As I have already testified, after the
10 January 20 meeting, I was not directly involved. That
11 involvement was primarily Mr. Baldwin with the help of
12 Mr. Acerno and Mr. Kowieski.

13 My understanding is -- and it would only
14 be from hearsay, and if you would like, I will continue,
15 but I would think that question would be better
16 addressed to either Mr. Baldwin or Mr. Kowieski.

17 Q Mr. Kowieski, would you like to supplement that?

18 A (Witness Kowieski) As Mr. Keller stated, at
19 RAC meeting on January 20, we discussed adequate and
20 inadequate ratings. We discussed our RAC comments and
21 we agreed on the final ratings.

22 We also identified what needs to be corrected
23 in the plan, in cases there was a need for such a
24 correction when adequate rating was given.

25 After January the 20 meeting, when I sit down

1 with Mr. Baldwin and Mr. Acerno, we tried to develop a
2 definition, tailor language on our cover page, like a
3 legend, how to describe what would constitute the best
4 description, the best description of adequate, inadequate,
5 adequate with legal concerns, inadequate with legal concerns.

6 So when we finished with our legend, we went
7 through the RAC comments again, as a whole, 60 pages,
8 to make certain there is a consistency, when we gave
9 adequate rating, that we did not miss anything, whatever
10 was discussed during the January the 20 meeting.

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1 So, to answer your question, if you asked me:
2 Well, did RAC actually for each element rated adequate,
3 did RAC actually use the term, 'provisional,' I cannot
4 testify to this for each single element rated adequate
5 with provisional. If we used the term, 'provisional.'

6 What I can assure you that we agreed on
7 modifications that are needed to the Plan, even if the
8 element was rated adequate. However, the language itself,
9 the term, 'provisional,' 'provided that,' I would not --
10 I wouldn't be able to testify for this for every element
11 identified in the Plan by the RAC review, and we have a
12 total of 17.

13 If 17 elements rated adequate with provisional,
14 with caveat, if this was discussed at the January 20th
15 meeting. I don't know if I answered your question.

16 Q Would you be able to tell me if you believe that
17 the RAC members when they left the Jaquary 20th meeting had
18 an idea of which elements were going to be rated, 'adequate,
19 provided that?'

20 A They had a pretty good idea, yes. As a matter
21 of fact, on May the 10th, the RAC Committee met again, before
22 we met with LILCO on May 11th. There was not even one single
23 issue raised about adequate ratings with caveat, 'provisional.'

24 Q Well, Mr. Keller, is it your understanding that
25 when the RAC members left the January 20th meeting, they

1 also knew which criteria elements would be rated, 'adequate,
2 provided that?'

3 A (Witness Keller) No, it is not, and I think
4 Mr. Kowieski addressed this. I think he said that they
5 had not decided on the word, 'provided that,' 'adequate,
6 provided that,' until later.

7 What my recollection is that on those elements
8 which ultimately ended up adequate, provisionally, or
9 however, the RAC left the meeting with the understanding it
10 was going to give an A as opposed to an I, which it did,
11 and within the body of the discussion there was going to be
12 wording which suggested strongly that a Plan revision would
13 be needed.

14 In my understanding of what Mr. Kowieski just
15 said, is that in their formulation of the exact words which
16 had finally been approved, and in order to provide some
17 consistency, they adopted this, 'adequate, provided that'
18 the following changes are made.

19 These -- the substance, the requirements for
20 change were discussed at the RAC meeting, and the RAC
21 members when they left knew or understood that these
22 requirements for change would be in the report.

23 Q And, Mr. Kowieski, you were the one who then
24 identified those items for subsequent change, and you put
25 them into the RAC report as 'adequate, provided that.'

A (Witness Kowieski) Again, it is my responsibility

1 to assure consistency.

2 And it was my responsibility to review, go through
3 the entire report, to assure there is a consistency, and
4 in certain cases I felt that this should be somehow
5 underscored, and I accomplished this by inserting the
6 language, 'provided.'

7 But again, I want to make it clear, that it
8 is possible that at the January 20th meeting, some of this
9 language was already in.

10 So, you know, I don't want to exclude that
11 some of the language which provided that certain modifications
12 to the Plan would be made did not appear in the workable
13 document, the draft document, which was distributed at the
14 January 20th meeting. I hope you understand this.

15 I hope that we have an understanding. At least,
16 I am trying to accomplish this. That the language itself,
17 as Mr. Keller stated, the agreements, what modifications have
18 to be made to the Plan, agreements and consensus was reached
19 at the January the 20th meeting. Is it clear?

20 Q I would like to refer you to page 10 of your
21 testimony, which deals with Contention 21. In the last
22 paragraph, it states that the effectiveness of the public
23 education program would be evaluated at an exercise of
24 emergency response preparedness at Shoreham.

25 My question is: How would FEMA evaluate the

1 effectiveness of a public education brochure?

2 A I will be glad to answer your question. What
3 we have done in the past during the exercises, we would
4 sample at random population within the ten mile EPZ.

5 I would assign each observer that after they
6 finished their regular task they would sample, lets say
7 each one of them five or ten residents, that some of them
8 would go to various public building facilities, the
9 restaurants, real estate offices, golf courses, every possible
10 place that would be involved, or would have to follow the
11 recommendation made by decision-maker.

12 And we would ask those individuals, interview
13 individuals the questions of this nature: Are you aware that
14 your facility, that you are located within the ten mile EPZ.
15 We would ask them if they understand what kind of warning,
16 how the warning came about, the sirens, or route alerting,
17 and how they should respond. If they understand what is
18 necessary. What would be the next step?

19 And obviously, we would expect they understand
20 there is an emergency broadcast system, that they are
21 supposed to turn on the radio to EBS and listen for
22 instructions.

23 So, basically the effectiveness is if people
24 understand what they are supposed to do in case of an
25 emergency. This would be evaluated during the exercise.

1 Q With respect to single single language minority
2 groups, how would the effectiveness of the public education
3 program be evaluated at an exercise?

4 A We have not attempted, at least in our Region II,
5 to evaluate effectiveness of the public education program
6 for single minority language group. However, I want to make
7 it clear that according to the Guidance Memorandum No. 20,
8 that was issued by FEMA Headquarters Office that deals with
9 the foreign language translation of public education brochures
10 and safety messages, this requirement applies only if the
11 single minority -- single language minority group exceeds
12 five percent of the total population.

13 We had an instance -- an example in Rockland
14 County, that is within the ten mile EPZ of Indian Point,
15 there were issues raised about single minority language
16 group. The study was conducted by the utility and revealed
17 it was the single minority group constituted less than
18 five percent.

19 So, we didn't feel it was an issue, so we never
20 attempted really to go any further. We rely on the
21 information provided by the State and the County that special
22 efforts will be made by religious leaders, community leaders,
23 to educate those individuals on emergency action plans.

24 A (Witness Keller) I would like to clarify
25 something. I believe, while listening to Mr. Kowieski's

1 oral testimony he said that Guidance Memorandum 20 requires
2 other translations -- other languages -- I think he said
3 five percent of the total population. Our written testimony
4 says five percent of the citizens of voting age, and I believe
5 that to be the correct characterization. I believe he
6 misspoke in his oral.

7 A (Witness Kowieski) That is correct.

8 Q Mr. Kowieski, I may have misunderstood your
9 answer, because I thought that your answer pertained to
10 Indian Point, but can you tell me with respect to Shoreham,
11 do you know if five percent of the citizens of voting age
12 in Suffolk County are members of a single language minority?

13 A We also use census data based on 1980 population
14 estimates, and if I recall, there is no more than four point
15 eight of the total population of Spanish origin.

16 A (Witness McIntire) And to clarify that further,
17 that four point eight percent is of Spanish surname. And
18 I believe the correct title is that does not necessarily
19 mean that all the Spanish surname people out here do not
20 speak English. We think the percentage is much lower, the
21 number that are really single language persons.

22 Q Couldn't that also mean that someone who did
23 not have a Spanish surname might speak a foreign language?

24 A It might, but the wording in Guidance Memorandum
25 20 is single language minority, so we are not totalling all

1 of the minority speaking population to reach the five percent.

2 Each single minority must constitute five percent
3 of the population of voting age people.

4 Q Was the Spanish language your only concern when
5 you reviewed the census data?

6 A (Witness Kowieski) No, but this is the largest
7 group that was singled out in the census data.

8 Q Did the census data break down the information
9 by citizens of voting age?

10 A (Witness Baldwin) No, it didn't.

11 Q Do you think that persons of non-voting age
12 who are members of a single language minority group, for
13 example, persons under 18, would benefit from translation
14 of a public education program during a nuclear emergency?

15 A They could, if it was warranted and required.
16 And I think as Mr. Kowieski has testified, a determination
17 of that number that meets the criteria set forth in
18 Guidance Memo 20, has not been made at this time.

19 There is a list in Guidance Memo 20 of those
20 counties and locations which are affected by this guideline,
21 and that list is for operating plants. Shoreham and Suffolk
22 County are not included on that list because, as we know,
23 Shoreham is not an operating plant.

24 A (Witness McIntire) And to add further to your
25 question, one of the basic presumptions that is made is

1 that people below voting age, which is 18, would probably,
2 in most cases, be living with parents or other relatives,
3 or certainly an older person.

4 Q Well, Mr. McIntire, isn't it true that if the
5 person who is under 18 spoke a single language, that the
6 parents would also speak a single foreign language?

7 A My presumption is it would probably be the
8 other way around. That the general pattern of this country
9 over the years has been that the parents tend more to speak
10 single language, while the children who grow up in this
11 country tend more to be bilingual.

12 That was the case in my Mother's home, I know
13 that.

14 (Laughter)

15 Q Mr. Baldwin, I would like to clarify something
16 that you just told me. Did you say that there has not been
17 a determination that has been made yet about the five percent
18 figure in GM 20?

19 A (Witness Baldwin) My understanding is that
20 is correct with regard to Suffolk County, that is right,
21 as it pertains to this particular guidance that if five
22 percent of the citizens of voting age in a political
23 subdivision are members of a single language minority, then
24 translation is warranted. And that determination has not
25 been made at this time.

1 We have made a deter -- well, we have looked
2 at the census data for 1980, and ascertained that four
3 point eight percent of the total population of Suffolk
4 County is shown to be there as Spanish origin, and that is
5 all we can say at this point.

6 Q If that data showed that it was five point two
7 percent, would that satisfy you? Would that meet the five
8 percent cutoff?

9 A (Witness McIntire) It would be pure speculation
10 at this point in time. If we saw something like that, we
11 would certainly inquire further into the exact population
12 distribution out here in conformance to Guidance Memorandum
13 20.

14 Q I am sorry. I asked that question in a poor
15 manner. What I meant was, you said that four point eight
16 percent of the people had Spanish surnames, and I think now,
17 Mr. McIntire, you are telling me that if five point two
18 percent had Spanish surnames, then you would look further
19 to see if, indeed, they were a single language minority
20 group?

21 A Probably. That -- as I said, that is speculation,
22 but I am convinced that we would make further local inquiries
23 if the percentage did reach five percent or more.

24 Q Now, let's assume for the time being that the
25 percentage is below five percent. Are you aware of the

1 portion of Guidance Memorandum 20 that deals with the
2 recommendations for certain actions that should be taken
3 in that event?

4 A (Witness Kowieski) Yes, I do. However, to
5 be specific, I have to refer to Guidance Memorandum No. 20.

6 Q I have a copy in front of me, but it is marked.
7 Do you all have a copy?

8 A Yes, sir. Yes, sir, I am ready.

9 Q Mr. Kowieski, can you tell me if the LILCO Plan
10 that you reviewed contains any of these provisions that
11 are recommended in Guidance Memorandum 20?

12 MR. GLASS: Objection. What is the relevancy
13 at this point, if there has already been indicated there
14 is no need, it doesn't meet the criteria of the standards
15 set out in Guidance Memorandum 20.

16 MR. ZAHNLEUTER: The standard says: If minority
17 language individuals in the EPZ do not exceed five percent
18 of the population, then other efforts should be made to
19 afford those people protection.

20 And I am inquiring about what those other
21 efforts are, and whether they are in the Plan.

22 JUDGE LAURENSEN: Objection is overruled.

23 WITNESS KOWIESKI : To the best of my recollection
24 the Plan does not make any special provisions for any single
25 minority language population. However, it should be noted

1 there is no specific requirement, as far as I know, in
2 NUREG 0654.

3 Q Is it your testimony that if NUREG 0654 is
4 silent, and the Guidance Memorandum is not silent on an
5 issue, then the Guidance Memorandum should not be followed?

6 A (Witness McIntire) I think, perhaps, an
7 assumption is being implied that is not true in fact. And
8 that the assumption is that because four point eight percent
9 of the population in Suffolk County are of Spanish surnames,
10 that they are all of Spanish or single language personnel.

11 We know for a fact that is not the case, and
12 we are not sure there are that many people out here that
13 are single language minority. If information to the contrary
14 is brought to our attention, we will contemplate going further
15 with Guidance Memorandum 20.

16 Q Again, Mr. Kowieski, I think that we had a
17 misunderstanding. I am talking about the recommendations
18 which are set forth on page 2 of Guidance Memorandum 20,
19 and isn't it correct that those recommendations pertain to
20 a situation where the single language minority does not
21 exceed five percent?

22 A (Witness Kowieski) I am sorry. I think I missed
23 the essence of your question.

24 Q Okay. On page 2 of Guidance Memorandum 20, there
25 is a section there which is entitled: Recommendations.

1 A I see that.

2 Q And isn't it true that there are five bullets
3 underneath it, and they consist of separate items, and the
4 preface to those items states that if minority language
5 individuals in the plume exposure pathway EPZ do not exceed
6 five percent of the population, and there are not foreign
7 language materials provided, other efforts should be made
8 to afford them protection.

9 A I see that, sir.

End 13. 10
Sue fols.

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#14-1-SueT 1

2 Q So to clarify that we have the same understand-
3 ing, in your review of the LILCO plan did you find any of
4 these items addressed?

5 A (The witnesses are conferring.)

6 (Witness Kowieski) No. To the best of my
7 recollection, what is contained in plan and procedures I
8 haven't seen any material that would deal with five bullets
9 shown on Page 2 of Guidance Memorandum Number 20.

10 Q Okay. Thank you.

11 And I would like to refer you now to Page 12
12 of your testimony which deals with Contention 24. I
13 would like to ask you about the signature page reference
14 that you make in your testimony. You state that a signature
15 page format is appropriate in lieu of separate letters of
16 agreement for organizations where response functions are
17 covered by laws, regulations or Executive Orders.

18 Could you explain to me what is meant by the
19 terms "laws, regulations or Executive Orders?"

20 A (Witness Keller) I think the words are relatively
21 self-explanatory. I think what is involved here and should
22 be added to this first paragraph is basically a quote out
23 of the NUREG.

24 There were no of these such signature pages in
25 the plan as we reviewed it. They presumably, this format
or a signature page, not the whole agreement, would be

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1 sufficient, would be between and would be applicable in
2 the "normal circumstance" where you had a utility and the
3 offsite local governmental or state agencies.

4 In this particular case, as we all know, the
5 County and the State have chosen not to participate. So,
6 this signature page format would not be appropriate, since
7 there are no letters of agreement with the County or with
8 the State. This first paragraph is basically a quote out
9 of the regulations or out of the NUREG.

10 Q Would a signature page format be appropriate for
11 a letter of agreement with the Red Cross?

12 A I don't believe so.

13 Q Okay. I would like to jump up to Page 16 now.

14 A 16?

15 Q 16. In your answer to Question 25, you state:
16 An assessment of whether the number of ambulances identified
17 in the plan, paren -- and then I will leave that out -- are
18 actually available would be determined during an exercise.

19 Now, if an ambulance company that were relied
20 upon by LILCO were prohibited by law from extending its
21 service into the EPZ, would you consider that to be an
22 inadequacy?

23 A (Witness McIntire) I believe I have testified
24 previously, if it were brought to our attention that some
25 of the ambulances relied on were prohibited for some legal

#14-3-SueT 1

2 reason from providing service in the EPZ, that would
3 certainly be a matter for us to be concerned about and
4 investigate further.

5 Q Would that be a matter of concern for you at
6 this stage of the plan review or at the stage of the
7 exercise?

8 A More towards the exercise. But it is no one
9 place where, you know, everything fits in nice and logically.

10 But you are quite correct in pointing out that
11 our testimony is on the plan review only.

12 (Witness Kowieski) Also, I would like to add
13 that the NUREG 0654 requires letters of agreement with
14 ambulance and bus companies. If letter of agreement is
15 provided, if letter of agreement is signed by ambulance
16 company, I would personally expect the individual, the
17 manager, the individual in charge, is aware of the laws and
18 the regulations before he signs the letter. That's what
19 I do.

20 (Laughter.)

21 Q And I take it, Mr. Kowieski, that you would
22 hold that assumption unless you were shown something that
23 proved otherwise, correct?

24 A If it would be proven to me otherwise, as Mr.
25 McIntire already testified, we definitely would investigate
further this matter.

#14-4-SueT 1

2 Q I would like to skip to Page 20. I will address
3 this question to you, Mr. Keller.

4 Does the Red Cross' usual emergency response
5 functions, which is the term that you used, include the
6 process of decontamination and monitoring?

7 A (Witness Keller) It does not.

8 Q In addition then to having a letter of agreement
9 with the Red Cross, would it be necessary for a utility to
10 have a letter of agreement with a relocation center to
11 cover the activities of decontamination and monitoring?

12 A I personally have never considered that aspect.

13 Q Does anyone have an opinion?

14 A (The witnesses are conferring.)

15 Let me try anyway. In review of the plan, and
16 in the discussion with LILCO to discuss our RAC review
17 comments, at which the County was represented by counsel,
18 we discussed this point. One of our problems was that there
19 is an interface in the emergency response plan, LILCO
20 emergency response plan, at the relocation centers, which
21 is not a usual thing.

22 We all accept the fact I hope, or I do anyway,
23 that the Red Cross can set up relocation centers and can
24 care for people in an emergency. There is some degree of
25 uniqueness in this particular case, since representatives
of LILCO will be involved with monitoring of arriving

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2 evacuees and potential -- I'm sorry, decontamination of
3 arriving evacuees. We were concerned that the procedures
4 and other material in the plan, which could be considered
5 letters of agreement, were not specific enough in outlining
6 and detailing this interface which is not usual, which is
7 a little unique.

8 We have addressed this as a matter of concern at
9 this point. I think the representatives of LILCO at the
10 May 11th meeting said they understood our concern and would
11 attempt to resolve it whenever they make the next revision.

12 Q Can you categorize your concern as an inadequacy?

13 A Unless something is done to -- yes.

14 Q Mr. McIntire, yesterday you referred to a
15 communications system which was called, NAWAS. Could you
16 please describe what that acronym stands for and what
17 function NAWAS serves?

18 A (Witness McIntire) I can't off the top of my
19 head describe what the initials stand for. The pronunciation
20 that we use around our office is NAWAS. Yours may be as
21 well or better than ours.

22 But basically it's, to my understanding and I
23 submit I am not a communications technical expert, but there
24 is an instrument in our communications center which is
25 voice activated. It can be activated between two single
points or it can be activated so the entire network, which

#14-6-SueT 1

2 I'm not sure how many it is, it's probably somewhere in the
3 range of fifteen to twenty-five individual stations. I
4 believe it goes as far south as the State of Virginia and
5 as far north as Maine.

6 And basically it's a secure communications
7 network of the federal government.

8 Q Is there a connection between NAWAS and Shoreham?

9 A It is my understanding that the connection is
10 still in place. Yes.

11 Q When I asked before what function the NAWAS
12 would serve, I guess I would ask what function does NAWAS
13 serve with respect to FEMA and a power plant?

14 A Originally, it's my understanding, that the
15 NAWAS was a system of national defense. And I think it goes
16 way back, at least until the 50s or at least the early 60s
17 when technology was much less advanced than it is today.
18 And it was a way, again, so there would be very rapid com-
19 munication among, in this case, basically state governments
20 and principal federal agencies involved in the defense
21 effort.

22 What seems to have happened now, because the
23 system is in place in New York State -- and it's speculation
24 on my part, that apparently it was used because, it's my
25 understanding, that any legitimate user, and I think that
means does not have to be a governmental organization, any

#14-7-SueT

1 legitimate user can have a NAWAS drop put in and pay for
2 the rental of it, and it can be used in any type of
3 emergency preparedness, because the federal government over
4 the years has expanded its definition of emergency prepared-
5 ness from the defense related effort being primary to an
6 all-hazards approach which we are using nowadays.

7 Q Do you know if it's a requirement that a NAWAS --
8 how did you say that, NAWAS?

9 A NAWAS.

10 Q Do you know if it's a requirement that a NAWAS
11 line be installed between the federal government and the
12 state government and a power plant?

13 A The power plant, I'm sure it's not.

14 Q You are sure it's not a requirement?

15 A Yes.

16 MR. GLASS: Mr. Zahnleuter, I assume you are
17 only asking as to the requirements on the offsite. Mr.
18 McIntire would not be necessarily familiar with those issues
19 that may involve onsite requirements of the NRC.

20 MR. ZAHNLEUTER: Yes. I'm only concerned about
21 offsite matters.

22 MR. GLASS: Thank you.

23 BY MR. ZAHNLEUTER: (Continuing)

24 Q I would like to move to a slightly different
25 matter. In the RAC report, there is a reference to Figure

#14-8-SueT 1

2.2.1 of the plan.

2

MR. GLASS: To assist the panel, could you tell

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them where that reference is contained?

4

WITNESS KOWIESKI: The page number in RAC

5

report?

6

MR. ZAHNLEUTER: Yes.

7

BY MR. ZAHNLEUTER: (Continuing)

8

Q It's Page 3. Isn't it true that Figure 2.2.1

9

assumes that New York State will communicate with LERO?

10

MS. MC CLESKEY: I object to the question. I

11

don't know what the relevance to any of the contentions or

12

to the testimony filed by these witnesses are. The LILCO

13

plan does not rely upon New York State for response.

14

MR. ZAHNLEUTER: The testimony incorporates the

15

RAC report, and I am inquiring about the RAC report.

16

JUDGE LAURENSEN: What page of the RAC report

17

did you say?

18

WITNESS KOWIESKI: Page 3 of RAC report.

19

MR. ZAHNLEUTER: It's NUREG Element A.1.C that

20

is addressed by this portion of the RAC report.

21

WITNESS KELLER: I believe our testimony --

22

JUDGE LAURENSEN: The objection is overruled.

23

WITNESS KELLER: Excuse me.

24

BY MR. ZAHNLEUTER: (Continuing)

25

Q Okay, Mr. Keller, you may answer the question.

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2 A (Witness Keller) I believe our testimony says
3 that the block diagram assumes that there will be communica-
4 tion between LERO and both New York State and Suffolk
5 County. The RAC did not assume that; the plan certainly
6 shows that to be the case.

7 Q Okay. Thank you. Then, I refer you to --

8 A (Witness Baldwin) I would like to also add to
9 that, that that is one of the reasons that Element A.1.C
10 has been found inadequate. And also we have criticized
11 that chart as being -- yes. Enough. That's it.

12 Q Okay. I also would like to refer you to Figure
13 3.4.1 of the plan.

14 (Witnesses are conferring.)

15 A (Witness Baldwin) Mr. Kowieski has just pointed
16 out to me that that is not the reason that we have graded
17 that as inadequate. That's right. It is not the reason
18 that that has been rated inadequate.

19 Q Well, could you look at Figure 3.4.1? Isn't it
20 true that that Figure indicates that the RECS line links
21 New York State with the Shoreham control room?

22 A (Witness Keller) That is correct.

23 Q What do you think is the value of the RECS
24 line as a communications link between the government and
25 Shoreham control room?

26 A (Witness Kowieski) Well, the value of any RECS

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1 line, as far I know, in nuclear power plant that when there
2 is a problem, a nuclear power plant, the control room
3 operator, someone in control room, can pick up the phone
4 and phone rings wherever it is connected to. If the phone
5 is connected to the warning point, the state, the county,
6 it rings simultaneously in all those locations.

7 (Witness McIntire) Basically, it's speedy,
8 direct communications.

9 Q I note on Page 1 of the RAC report in the third
10 paragraph of the comments, the RAC states that the plan
11 does not address what support New York State will provide
12 in a radiological emergency. And then it goes on to say:
13 If New York State is likely to respond provision for inter-
14 face with LERO should be included.

15 If the RECS line between the State and Shoreham
16 were to be inoperable, would you have any concerns?

17 A (Witness McIntire) Would you be a little more
18 specific on concerns and what type of specific concerns?

19 Q What type of concerns did you have in mind when
20 you endorsed the review comment that I just read?

21 A (Witness Kowieski) Well, our concern was simply
22 that the plan make a provision -- made a provision that if
23 New York State is likely to respond, if New York State will
24 desire to respond, they will be welcome; however, there
25 was no provision in the plan, detailed provision, how New

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York State will interact with LERO organization.

2

Q Is it the RAC's recommendation that such a

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provision should be in the plan?

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1 A (Witness Keller) If it is likely, as we
2 have stated on the page, if it is likely that New York
3 State will respond, yes, it ought to be included in
4 the plan. Based on conversation and what we read in the
5 media at the present time, I personally don't think it
6 is likely.

7 A (Witness McIntire) Again, I don't think that
8 we in FEMA have ever had a clear indication of what
9 New York State's policy is regarding to respond. We
10 are very clear on what it is regarding to planning.

11 Q Could you take a look at page 52 of this RAC
12 report; this pertains to NUREG element N.2.A dealing
13 with testing of communications systems.

14 Do you know what provisions of the plan deal with
15 testing of communications systems?

16 A (Witness Kowieski) I believe the procedure
17 OPIP 3.4.1. If you want, we will verify this in
18 procedure.

19 Q It states here in the RAC report that the plan
20 adequately addresses the testing of communications
21 systems with the following, and the third bullet identifies
22 the state and local (LERO) EOCs annually.

23 Are you aware of page 341 of the plan?

24 A (Witness Keller) I am aware that the plan
25 has a page 341.

1 Q Do you know if the RECS line between the state
2 and Shoreham control room has been tested monthly?

3 (Witnesses conferring.)

4 JUDGE LAURENSEN: Excuse me for interrupting,
5 but I am curious why we are spending this amount of time
6 inquiring into this, when I think you indicated previously
7 or the witnesses indicated previously that this line has
8 been terminated.

9 Is there some reason that this is important
10 for the state's case?

11 MR. ZAHNLEUTER: I don't believe that the
12 witnesses ever indicated that this line was terminated.
13 They were speaking of NAWAS, which is different than RECS.

14 (Pause.)

15 JUDGE LAURENSEN: I don't mean to jump ahead
16 of what you are going into, but there does seem to be
17 some indication that, in fact, the telephone link
18 that you are talking about has been terminated.

19 My question still stands, and that is, whether
20 this is a useful expenditure of everyone's time here to
21 inquire into the testing of it prior to such time?

22 MR. ZAHNLEUTER: Well, I am attempting to
23 lay a foundation for the exhibit which I think you have
24 already looked at, and part of the foundation rests with
25 the RAC review where communication links between the state

1 and Shoreham are identified and are stated to have been
2 tested.

3 WITNESS KELLER: I -- I'm sorry. I thought
4 there was a question.

5 JUDGE LAURENSEN: What difference does it make?
6 That is my point.

7 MR. ZAHNLEUTER: I think I am trying to point
8 out that the RAC report is not accurate in that it
9 states that there is a communications link between the
10 state and between Shoreham which is tested and the
11 provisions for testing it are adequate. And I will
12 eventually lead up to the point, I will show that the RAC
13 report could not be correct because the link has been
14 deactivated.

15 MR. GLASS: I just have a little concern.
16 Inaccurate, I think there are a number of events that
17 are overtaking the RAC report at this time.

18 JUDGE LAURENSEN: You claim that you are going
19 to establish that the RAC report was inaccurate when it
20 was issued based on the information you are developing,
21 or that some event subsequent to the issuance of this
22 report have changed it?

23 MR. ZAHNLEUTER: That is correct.

24 JUDGE LAURENSEN: Well, let's get to that then.
25 Let's move right along and get to the bottom line of what

1 you are trying to establish instead of going through all
2 this time we are now spending over something that is
3 totally irrelevant to the bottom line that you are
4 getting to.

5 BY MR. ZAHNLEUTER:

6 Q Are any of you aware of any testing that has
7 been conducted up to this point between the state and
8 the Shoreham control room via the RECS line?

9 A (Witness Keller) We are not. I would like
10 to add, hopefully clarify, which I thought we had been
11 trying to do, what we have in the RAC report, what we
12 have testified on is a plan review.

13 What the RAC report says is that the plan says.
14 We have not independently verified any of these things in
15 any little area you want to go into -- busses,
16 schools, telephones, anything you want.

17 We have reviewed the plan. We say what the
18 plan says. We have compared and evaluated what the
19 plan says against the requirements of 0654.

20 Based on that evaluation and that evaluation
21 alone, the RAC review was done. If you would like,
22 we would stipulate we don't know whether the phone is there.
23 We don't know whether the phone was ever there.

24 What we will say is that the plan says that it
25 was there.

1 JUDGE KLINE: I just wondered if we couldn't
2 adopt a code word, "plan review," and assume, every time
3 we hear it from now on, that that explanation goes with
4 it.

5 (Laughter.)

6 MR. GLASS: FEMA heartily endorses that.

7 (Pause.)

8 BY MR. ZAHNLEUTER:

9 Q I think I will move on at this time to page
10 53 of your testimony which deals with the directory of
11 noninstitutionalized mobility-impaired individuals,
12 and you have an adequate provided rating explained there
13 on page 53.

14 A That's the RAC review.

15 Q Mr. Keller, I am on page 53 of your testimony.

16 A Thank you.

17 Q Could you tell me at the time of your review
18 what was incomplete about the directory of the
19 noninstitutionalized mobility-impaired individuals?

20 A The directory.

21 Q What about the directory was incomplete?

22 A To our knowledge, the directory did not
23 exist at the time we did the plan review.

24 A (Witness Kowieski) I would like to
25 add that I think already that I testified to this

1 effect, that some understanding that directory is
2 being compiled based on the survey cards.

3 Q How would FEMA determine then, Mr. Kowieski,
4 when the directory would be complete?

5 A (Witness McIntire) Probably when it was
6 presented to us in the completed form.

7 A (Witness Kowieski) Again, as I testified,
8 during the exercise we test, on limited basis, evacuation
9 of mobility-impaired individuals. And what we do, we
10 basically ask for a list, complete list of mobility-impaired
11 individuals, and we select at random several addresses,
12 and we introduce during the course of the exercise to
13 decision maker and will test his ability, first of all,
14 to direct and deploy resources, and then individual,
15 the driver, his or her knowledge of the area as well as
16 requirements, what is needed to move disabled individuals.

17 Q I would like to move on to page 56 where
18 there is a discussion of selective sheltering.

19 Mr. Keller, do you know if the LILCO plan
20 identifies the criteria that would be used to determine
21 when the LERO officials would order a protective action
22 of selective sheltering?

23 A (Witness Keller) As the testimony shows, a
24 quote from the plan. Would you like me to read it?

25 Q No. In your opinion, then this passage that you

1 have quoted constitutes criteria to determine when the
2 protective action would be used?

3 A It clearly states that the protective action
4 may be ordered at projected doses below the accepted
5 PAGs. That is a criteria. The PAGs are in the plan.
6 Doses below those PAGs then are criteria.

7 As I stated in my deposition, I also don't
8 think that this option, based on the information that
9 we read in the press and in discussions, is one that could
10 ever come to pass under the current situation because the
11 plan also states, and if LILCO follows its plan, that this
12 option strategy would only be used if approved by the
13 New York State Commissioner of Health. And it is
14 my understanding that the New York State Commissioner of
15 Health is not going to participate.

16 Therefore, I presume if he doesn't participate,
17 he can't approve it and they can't use the option, if
18 they follow their plan.

19 Q Mr. Keller, if you turn to page 61, there is
20 another passage which deals with selective evacuation.

21 Is your testimony that you just gave to me the
22 same for this passage?

23 A If we would substitute the word "evacuation"
24 for "shelter," everything else is exactly the same.

25 Q With respect to each of the passages, there is a

1 reference to pregnant women and children under 12 years.

2 Do you know if there are any other types of
3 radio-sensitive people that should be of concern?

4 A In terms of large numbers and large groups, I
5 would say that these are the two of primary concern.
6 I would suspect that there are other groups of people
7 who would have a low tolerance to radiation exposure.
8 People who are on medical treatment which entailed large
9 radiation exposures would, as a preferable thing, like
10 to avoid additional radiation exposure.

11 So that could put them into a, if you will,
12 low tolerance group. But I think the pregnant women
13 and children under 12 would be the primary large groups of
14 this type of individual.

15 Q People under medication would consist of
16 many people in hospitals and nursing homes, too, wouldn't
17 it?

18 A I said under radiation treatment, not just
19 medication. In today's society, there are many people
20 who are taking, either for therapy or for diagnostics,
21 rather large doses of radiation for medical reasons,
22 much higher than the PAG doses in many cases, much, much
23 higher. And good practice would say that you should not
24 add to these doses in any incremental way, if you can
25 avoid it.

1 Q Now, if you will flip the page over to
2 contention 64, which is on page 62, I am referring to
3 the first paragraph of your answer there.

4 Is it your testimony that the forecasted
5 meteorological conditions would include a forecast of the
6 wind shifts that would occur at the time of an emergency?

7 A A wind shift is a meteorological condition, yes.

8 Q And is it your testimony that inherent in that,
9 there is the ability to forecast the wind shifts?

10 A With some degree of accuracy, yes.

11 Q Could you approximate that degree of accuracy
12 roughly?

13 A No.

14 A (Witness McIntire) I don't think anybody
15 has any meteorological training on this panel.

16 A (Witness Keller) That is not quite true, but
17 go ahead.

18 I think the public perception, to a great degree
19 valid, is that the meteorological projections are not
20 highly accurate, although they are much more accurate
21 in this country compared to where they would be in
22 mountainous terrain where I live.

23 There is an inherent uncertainty in meteorological
24 projections, and this uncertainty is generally covered
25 and is discussed in the protective action recommendations

1 discussed in 0654 in what we sometimes call a keyhole
2 approach.

3 To allow for uncertainties, if you break the
4 compass sector up into 16 segments, if the wind is right
5 down the middle of a given segment, if protective action
6 recommendations are to be considered, you normally
7 consider it for both sectors on either side of the wind
8 center line. So that is three sectors.

9 So you have broadened your area of consideration
10 just because of the uncertainty.

11 Q In the last sentence of your testimony
12 on that page you talk about an exercise that would
13 evaluate the effectiveness of the procedure.

14 Isn't it true that an exercise could only
15 measure the wind shifts that were in existence at the
16 time of that exercise?

17 A That is correct. And in general, as a matter
18 of fact, I won't say exclusively, but in the majority of
19 the cases, exercises which are held do not use real time
20 meteorology for many operational reasons, primarily ones
21 involved with field teams, et cetera.

22 Since there is no radiation present in an
23 exercise, you have to be able to feed artificial data
24 in to the field team people. That has to be
25 calculated ahead of time. So you calculate it for different

1 radial distances and different directions.

2 If you used real time meteorology, you would
3 have to have the capability, each of the controllers in
4 the field would have to have the capability and the
5 expertise to be able to instantly recalculate all the
6 data. And while that is not impossible, it is
7 highly unlikely.

8 So in the vast majority of the exercises we
9 used canned meteorology, and we can put in as
10 many wind shifts as we want or as few.

11 And the important point here, I think, is to
12 understand that people doing these projections and making
13 these decisions consider the forecast, consider the
14 fact that a projected wind shift is coming, the potential
15 for a wind shift is coming. And in many cases -- I have
16 just discussed this keyhole effect where you would almost
17 automatically implement your protective actions for the
18 two adjacent sectors. In many cases, if a wind shift
19 is projected, the decision maker will go ahead and recommend
20 a protective action for other sectors, based on the
21 anticipatory nature of a wind shift coming.

22 What we are talking about here is when the
23 wind shift really comes down, actually the event occurs,
24 and in the case of an exercise, the controller puts a
25 message, your med power just changed, how fast, with what

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degree of alacrity and precision do the responsible people make the new calculations, evaluate the impact of the new calculations, inform the decision maker and then the decision maker make his decision.

END 15

1 Q Mr. Kowieski, if I mischaracterize the following,
2 would you please tell me? Am I correct in stating that
3 you believe that there is a state law that requires schools
4 near nuclear power plants to have radiological response
5 plans?

6 MR. GLASS : This has been asked and answered
7 a number of times.

8 MR. ZAHNLEUTER: Well, I would refute that,
9 because I have checked the transcript, and this information
10 has not been asked and answered, and this is the first
11 question. I am trying to confirm if I have the right
12 understanding.

13 JUDGE LAURENSEN: Overruled.

14 WITNESS KOWIESKI: First of all, for the record,
15 I want to make certain we understand in New York State we
16 had three other sites. We have Ginna, Nine Mile Point, and
17 Indian Point.

18 The New York State dealing of this site has
19 overall responsibility. Coordination and dealings with the
20 local county government. In connection with Indian Point
21 hearing, it is my recollection the State of New York testified
22 -- and again it is my recollection -- the individual responsible
23 for offsite emergency planning in New York State testified
24 there is a state law which requires the schools had emergency
25 response plan in place in case of any emergency.

1 Not radiological. I am saying in case of any
2 emergency, as to who should be contacted in case there
3 is an emergency. If a child wouldn't feel good, if it
4 should be sent home.

5 That is how I learned about the state law,
6 and also later on I have been advised on other occasions
7 that this is the case.

8 Q Do you recall if the state law is applicable
9 to proposed unlicensed nuclear power plants?

10 A I am not --

11 A (Witness McIntire) Could I have a clarification
12 on this? We were talking about a law dealing with schools,
13 not power plants, is my understanding.

14 Q That is correct. We are talking about a state
15 law that supposedly dealt with emergency plans.

16 A For schools?

17 Q Correct.

18 A Okay.

19 Q Is it your understanding that the state law
20 you are talking about is applicable to emergency planning for
21 unlicensed proposed power plants?

22 A (Witness Kowieski) Again, I can only --

23 MR. GLASS: Objection. You are causing some
24 confusion with the panel, it is obvious. The state law
25 as they have stated, deals with the schools, and their

1 response to all types of emergencies.

2 So, are you postulating something that deals
3 with emergencies, or deals with the school. I am not
4 trying to harrass you in any way. I am trying to assist
5 you so that the witnesses can understand your question.

6 I have no problem even asking one of the
7 witnesses to help you with your question at this point.

8 MR. ZAHNLEUTER: I am trying to find out what
9 is exactly inside the term, 'all types of emergencies,' and
10 I am specifically interested in the case which is applicable
11 to Shoreham, which is a proposed unlicensed nuclear power
12 plant.

13 WITNESS KELLER: Insofar as an emergency could
14 arise from, as you characterize it an unlicensed nuclear power
15 plant, that would effect the schools. It is our understanding
16 that this law would be effective.

17 WITNESS McINTIRE: And it is my understanding the
18 law is for all schools in New York State, no matter whether
19 there are nuclear power plants nearby or not, operating or
20 not.

21 BY MR. ZAHNLEUTER: (Continuing)

22 A And your testimony is based on recollection of
23 prior testimony at Indian Point?

24 A (Witness Kowieski) That is correct.

25 Q And the testimony that was given at Indian Point,

1 was that testimony provided by someone who was speaking on
2 behalf of the Commissioner of Education of the State of
3 New York?

4 A No. It was provided by someone who spoke
5 on behalf of New York State with regard to Indian Point
6 nuclear power station, who I think he is authorized -- was
7 authorized to represent the State of New York with regard
8 to nuclear power plant.

9 A (Witness McIntire) It is my understanding the
10 individual also works for the Commissioner of the Disaster
11 Preparedness Commission.

12 Q I thought that we were focusing on the school
13 aspect of it, and not the power plant aspect of it, but I
14 would ask if you knew that this person was an employee of the
15 New York State Education Department?

16 A (Witness Kowieski) Not to my knowledge.

17 Q Okay. I would like to return for a moment
18 to the matter we were discussing before with the RECS line.
19 Is it your understanding that there is an operational RECS
20 line between the State of New York and --

21 A I think we already testified we -- that is
22 not our understanding, if one is operational or not. It
23 is our understanding what is in the Plan, and the Plan specifies
24 that the RECS line connection between the utility and the
25 State of New York.

1 A (Witness McIntire) Based on the copy of the
2 letter from Dr. Axelrod that you just passed out after
3 lunch, it is my personal understanding now that there are
4 no RECS lines operating between the Shoreham nuclear power
5 plant and New York State.

6 Q I think you are referring to a document which
7 we have not identified, but it should be marked as State
8 Exhibit 11, is that correct, Judge Laurenson?

9 JUDGE LAURENSEN: It will be so marked.

XXXXX

10 (Above referred to document
11 is marked State Exhibit No. 11,
12 for identification.)

13 MR. ZAHNLEUTER: I have no other questions,
14 but I would move that State Exhibit No. 11 be admitted
15 into evidence.

16 JUDGE LAURENSEN: Is there any objection
17 to that?

18 MR. GLASS: I don't know if I have an objection,
19 but I just do not see any foundation laid through this panel.
20 They handed it out, the panel read it, and they said: That
21 is what I read.

22 But we could do that with any piece of paper.

23 MS. McCLESKEY: I have an objection. I think
24 it hasn't been shown that this letter is relevant to anything
25 in the testimony or in the RAC review.

1 It is dated July 10th, three days ago, and
2 it is from a state representative to someone at LILCO who
3 has not yet received it, and none of these witnesses,
4 except for Mr. McIntire who was clever enough to pick it
5 up off of his table in front of him when it was passed out,
6 had ever seen it prior to about ten minutes ago.

7 MR. MILLER: The County has no objection to the
8 State's offering of this exhibit.

9 JUDGE LAURENSEN: Did you say that LILCO, Mr.
10 Daverio of LILCO has not received this letter?

11 MS. McCLESKEY: No, sir; we have not.

12 MR. ZAHNLEUTER: Judge Laurenson, I don't really
13 see how that should be determinative, because I recall when
14 we were dealing with the evacuation plans for special
15 facilities, LILCO offered into evidence, and the document
16 was admitted into evidence, and the document that I am
17 talking about was a letter that was dated one day before
18 the date that all of the Motions into evidence and rulings
19 were made.

20 JUDGE LAURENSEN: Well, ordinarily when there
21 is an objection to the foundation to a document, we usually
22 require that one side or the other to the letter be here
23 to supply that foundation.

24 I went back and looked over some of the prior
25 rulings that we had made on exhibits, and we had, in fact,

1 sustained some objections to a whole series of LILCO
2 exhibits previously where there was no foundation, and they
3 had to come back in and supply the foundation before the
4 exhibits were subsequently admitted.

5 I don't think anybody is questioning the
6 authenticity of Dr. Axelrod's signature or anything else,
7 but the question is where is the foundation for it, and
8 perhaps the best thing to do on this one is to at least
9 hold it in abeyance until the letter is received and reviewed
10 by Mr. Daverio, to whom it is sent.

11 Or to whom it is addressed, anyway.

12 MR. ZAHNLEUTER: That is fine.

13 JUDGE LAURENSEN: I think in light of that we
14 will just withhold the ruling on the admissibility of this.
15 Are you still questioning the relevance of this to any of
16 the admitted contentions?

17 MS. McCLESKEY: Yes. I question the relevance
18 of it to the admitted contentions, to these witnesses testimony,
19 and to the RAC review .

20 He has shown no connection between the statement
21 and anything that these gentlemen have said, or decided,
22 or may decide in the future regarding the adequacy of the
23 LILCO Plan.

24 JUDGE LAURENSEN: Maybe you should make that
25 showing for the record then, Mr. Zahnleuter, as to the

1 purpose for which you are offering this letter.

2 MR. ZAHNLEUTER: The purpose is to show that
3 the LILCO Plan states, on page 341 that there is a RECS
4 line between the Shoreham control room and the State, and
5 in several places that I mentioned before, the RAC review
6 takes note that there is a relationship between the State
7 and the Shoreham control room.

8 For example, there is one provision where it
9 states that there are adequate procedures for testing the
10 communications line between the State and the Shoreham
11 control room. The purpose of the letter would be to show
12 that such a communications link would not exist, and would
13 not be operational.

14 JUDGE LAURENSEN: But we really aren't -- we
15 are not litigating the LILCO Plan. We are not litigating
16 the RAC review. We are litigating the contentions that
17 were admitted to this proceeding.

18 Is there some contention that you can point
19 to to which this exhibit is relevant?

20 MR. MILLER: And could the County respond while
21 Mr. Zahnleuter is looking, because I think there is relevancy
22 to the contentions, and I would point that out to the Board.

23 JUDGE LAURENSEN: Either that, or I was going
24 to suggest that this might be an appropriate time, if Mr.
25 Zahnleuter wants to look through the contentions, to take

1 our first recess, and give him an opportunity to present
2 his argument on this.

3 MR. ZAHNLEUTER: I was just looking through
4 the five communications contentions, but I would like to
5 take a break.

6 JUDGE LAURENSEN: Well, let's take a ten minute
7 recess at this point, then.

8 (Short recess taken.)

9 JUDGE LAURENSEN: Mr. Zahnleuter?

10 MR. ZAHNLEUTER: Yes, sir. The letter is
11 relevant to Contention 26.A.2, which questions the capability
12 of LERO to make certain notifications to the public in a
13 timely manner.

14 The subject of the RECS lines is discussed on
15 page 31 of the County's testimony on Contention 26, page 30
16 of LILCO's testimony on Contention 26, and Dr. Cordaro
17 testified about the RECS line between the State and Shoreham
18 at page 4,390 of the transcript.

19 JUDGE LAURENSEN: Okay. As we indicated, we
20 are going to withhold a ruling on this in light of LILCO's
21 assertion that the letter has not been received by Mr.
22 Daverio at this point, and I will leave it up to you,
23 Mr. Zahnleuter to make sure you bring it back to our
24 attention so that we realize that this is a pending request
25 to admit a piece of evidence that we haven't ruled on.

1 MS. McCLESKEY: Judge Laurenson, if I may,
2 I would like to respond to Mr. Zahnleuter's statements of
3 a moment ago.

4 I don't understand why 26.A.2 makes this
5 piece of information relevant to the issues that we are
6 discussing.

7 The LILCO Plan -- notification to the public
8 is not predicated on a RECS telephone line to New York
9 State, and the letter says that the New York State telephone
10 line has been deactivated. LILCO does not rely upon New
11 York State in the LILCO Transition Plan as Mr. Zahnleuter
12 has established with many witnesses over the months.

13 In addition, I don't understand -- I have no
14 telecopied this letter to Mr. Daverio, and I suspect he has
15 read it, and I am not sure how that will help to make the
16 letter relevant, or have a foundation.

End 16. 17
Sue fols.

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2 We have the letter. We have received it. We
3 understand the one sentence in it. These witnesses have
4 never seen it. And it's not involving any party from
5 FEMA.

6 And I also think at this point that the informa-
7 tion that is stated in the letter, which is dated July 10th,
8 was apparently available to the State as of May 25th. Now
9 I would like the opportunity, and I will be glad to go back
10 and check when Dr. Cordaro and other LILCO witnesses were
11 here to testify on communications issues. But I would like
12 to raise the question why this information wasn't discussed
13 with them at that time.

14 MR. MILLER: I recall the LILCO witnesses testified,
15 I believe, in March on the communications issues regarding
16 Contention 26. And it would appear to me from the letter
17 that has been offered by the State that the RECS telephone
18 systems in the State facilities were removed following the
19 testimony offered by the LILCO witnesses.

20 MS. MC CLESKEY: Well, I will accept that re-
21 presentation. I wasn't involved in the communications
22 issues. But I do not understand why either Mr. Daverio's
23 receipt of the letter by telecopy five minutes ago, or the
24 introduction of the letter today, is relevant or has a
25 foundation.

JUDGE LAURENSEN: I just don't think it is going

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2 to be a very productive use of our time right now while the
3 FEMA witnesses are sitting here waiting to testify to try
4 to dig out the County's or the LILCO testimony to determine
5 the relevancy factor. That's why, in light of your objection,
6 I postponed the ruling on this and deferred it.

7 JUDGE SHON: I would like Mr. Zahnleuter to
8 answer one question.

9 Is it your position that the absence of a RECS
10 line which communicates solely with New York, the lack of
11 that RECS line, will in some way impact the workability of
12 the LILCO plan? I believe we have been told by LILCO that
13 they did not really need to communicate with the State,
14 since the State was not being relied upon to offer any
15 assistance.

16 Is that not factual? Will this interfere with
17 their plan in some way, in your opinion?

18 MR. ZAHNLEUTER: It certainly wouldn't interfere
19 with it. The difficulty that I have in answering your
20 question is that the LILCO plan and Dr. Cordaro have made
21 references to the existence of the RECS line. And, so it
22 is necessary to refute those statements.

23 I don't know why LILCO does make those references,
24 but they do.

25 MS. MC CLESKEY: I don't mean to be wasting
time or taking up witness time. And I just have one thing

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2 to add, and that is if what I understand Mr. Zahnleuter to
3 be saying is that he wants to rebut Dr. Cordaro's testimony
4 of March, then he should file rebuttal testimony and a
5 motion for leave to file it.

6 This is a totally inappropriate way to get these
7 letters in. And this isn't the first time that we have
8 seen New York State gen up a letter dated two days before
9 it shows up with it at the hearings and have information on
10 it that it then claims is plain on its face, and the parties
11 have to go scurrying around afterwards and find out what
12 the story is.

13 MR. MILLER: That sounds like an approach LILCO
14 has taken in this proceeding.

15 JUDGE LAURENSEN: Let's move on with the
16 testimony. Are there any further questions, Mr. Zahnleuter?

17 MR. ZAHNLEUTER: No questions, Your Honor.

18 JUDGE LAURENSEN: Ms. McCleskey?

19 CROSS EXAMINATION

20 BY MS. MC CLESKEY:

21 Q Mr. Kowieski, Mr. Miller asked you whether you had
22 had meetings regarding the Shoreham plan other than the
23 January 20th, May 10th and May 11th meetings among RAC
24 members. And you identify two meetings, one with Suffolk
25 County officials and one with LILCO to the review of the
Revision 3 changes. And for the record, I would just like

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2 to state that the questions and answers that I have just
referred to are at Transcript 12,288 through 89.

3 Now, the meeting you mentioned, Mr. Kowieski,
4 with LILCO took place in Hicksville in December of 1983;
5 isn't that right?

6 A (Witness Kowieski) December? What date again?

7 Q I beg your pardon. In January.

8 A January.

9 Q Of 1983. I beg your pardon.

10 A '84.

11 Q '84.

12 A That's correct.

13 Q Right. And representatives of Suffolk County
14 were invited and attended that meeting; isn't that right?

15 A That's correct.

16 Q Now, the meeting with Suffolk County took
17 place on January 13th, 1984; isn't that correct?

18 A That's also correct.

19 Q And Suffolk County officials invited FEMA to
20 meet with them at that time so that Suffolk County could
21 explain its views on offsite planning for Shoreham; is
22 that right?

23 A That's my understanding why that meeting was
24 arranged.

25 Q Now, it was Mr. Petrone and Mr. Glass and you who

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attended from FEMA; is that correct?

2

A That's correct.

3

Q And from the County there were Messrs. Brown,

4

Lanpher and Jones, right?

5

A To the best of my recollection, three individuals

6

representing Suffolk County.

7

Q LILCO was not represented at that meeting;

8

is that correct?

9

A That's correct.

10

Q Regarding Contention 26, Mr. Kowieski, Mr.

11

Miller asked you whether NUREG 0654 required --

12

A One minute.

13

Q Certainly.

14

A What page?

15

Q I'm at Page 23 of your testimony; is that right?

16

A Right.

17

Q Mr. Miller asked you whether NUREG 0654 required

18

notification to key personnel of LERO within fifteen minutes

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of the declaration of an emergency.

20

And you answered that the population must be

21

alerted within fifteen minutes. And for the record, the

22

question and answer I am referring to is at Transcript

23

12,485.

24

Now, the notification to the public under NUREG

25

0654 is within fifteen minutes of a protective action

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recommendation; isn't that correct?

2 A That's correct.

3 Q It's not fifteen minutes from the declaration of
4 an emergency at the plant?

5 A That's also correct.

6 Q Gentlemen, over the course of the last four
7 days you have referred to your professional judgment, and
8 your prior experience in supporting the conclusions that
9 you have stated in your testimony and in the RAC report.

10 Would each of you please list the nuclear plants
11 for which you have reviewed emergency plans or graded an
12 exercise?

13 MR. MILLER: Judge Laurenson, the County would
14 object to the question. The question is irrelevant. We
15 are here to deal with the LILCO Transition Plan, the Shoreham
16 plant and not other plants.

17 JUDGE LAURENSEN: It goes to the background and
18 experience of these witnesses.

19 Overruled.

20 WITNESS BALDWIN: This might be -- I might be a
21 bit slow in doing this but I will do it as quickly as I can.

22 Connecticut Yankee, which is in Connecticut.
23 Maine Yankee, Vermont Yankee, Ginna, Indian Point, Nine
24 Mile Point, Fitzpatrick, Salem, Oyster Creek. What am I
25 missing? I know there is one more missing in New England.

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1 Millstone. Thank you.

2 (Witness Kowieski) Since I became RAC Chairman
3 in November 1981, I was responsible for review of the
4 plans, preparation for, and execution of exercises in the
5 State of New York, New Jersey. This involves the following
6 sites: State of New York, Ginna, Nine Mile Point site,
7 Indian Point; New Jersey, Oyster Creek and Salem.

8 (Witness McIntire) In my case, the involvement
9 of myself is basically the same as Mr. Kowieski. I would
10 point out that each of the sites mentioned have had at
11 least two and in some cases three full scale FEMA-evaluated
12 exercises since 1981.

13 (Witness Keller) I'm going to miss some, I
14 know. Ginna, Indian Point, Nine Mile Point, Salem, Oyster
15 Creek, Catawba, Zimmer, Zion, Diablo Canyon, Trojan, Palo
16 Verde, Duane Arnold, Fort Calhoun. And I think about four
17 more in the years past. St. Lucie.

18 Q And am I correct, gentlemen, that some of you
19 have also been involved in reviewing the generic radiologi-
20 cal emergency plan for New York State as well as site
21 specific plans?

22 A (Witness Kowieski) That's correct.

23 Q And who among you are those?

24 MR. MILLER: I object, Judge Laurenson, on the
25 grounds of irrelevancy.

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JUDGE LAURENSEN: Overruled. You may answer.

2 WITNESS BALDWIN: Do you want the break-
3 down of the plan reviews and the exercises?

BY MS. MC CLESKEY: (Continuing)

4 Q No, sir. I want to know, Mr. Baldwin, whether
5 you have reviewed the New York State Radiological Emergency
6 Response Plan as well as the site specific plans and
7 exercises that you have previously listed?
8

A (Witness Baldwin) Yes.

Q And, Mr. Kowieski?

9 A (Witness Kowieski) Basically, my primary function
10 was to supervise the review and the consolidation of the
11 comments, RAC comments.
12

Q Have you read the plan?

A Yes, major portion of it.

Q Mr. McIntire?

13 MR. MILLER: Judge Laurenson, this -- excuse me,
14 Mr. McIntire. I object again. The content of the New
15 York State Plan is not before this Board. The contents
16 do not concern Shoreham.
17

18 JUDGE LAURENSEN: This is a continuation of the
19 answer to which your objection was previously overruled.
20

BY MS. MC CLESKEY: (Continuing)

21 Q Mr. McIntire, have you read -- have you been
22 involved in a review of the New York State Radiological
23
24
25

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Emergency Response Plan?

2 A (Witness McIntire) Yes. My basic responsibility
3 is to overseeing the review process.

4 Q And, Mr. Keller?

5 A (Witness Keller) Yes, I have reviewed the
6 State generic plan.

7 MS. MC CLESKEY: Thank you very much, gentlemen.
8 Those are all the questions I have.

9 JUDGE LAURENSEN: Mr. Glass, do you wish to
10 conduct any redirect examination now?

11 MR. GLASS: No. I think the agreement was that
12 the County can proceed.

13 I would like to -- and we would reserve our
14 opportunity until later.

15 What I would like, though, is some direction
16 from the Board as to the rest of our schedule today, be-
17 cause I know there are some matters that we had to discuss
18 at the end of the day, including the scheduling that is to
19 take place for FEMA's reappearance.

20 JUDGE LAURENSEN: Let's go off the record for
21 a moment.

22 (An off-the-record discussion ensues.)

23 JUDGE LAURENSEN: All right. Let's go back on
24 the record. After some extensive negotiations, the
25 parties have arrived at two agreements which I will ask them

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2 to place on the record. Thereafter, the Board will announce
3 its decision on the LILCO motions to admit revised and
4 supplemental testimony on Contentions 85 and 88. Thereafter,
5 we will turn the questioning of the FEMA panel of witnesses
6 back to the County until 5:15 this afternoon at which point
7 we will permit New York, LILCO -- New York and LILCO to do
8 recross examination, and we will permit Mr. Glass to con-
duct redirect examination.

9 And that will then terminate the testimony of
10 this panel for this week. So, at this point I will ask
11 whoever wants to be the spokesman to read into the record
12 the agreements concerning FEMA's testimony and depositions
13 concerning their testimony which will be heard in August,
14 along with another request for an extension of time con-
15 cerning the brochure testimony.

16 MR. MC MURRAY: Judge Laurenson, I will be
17 happy to read the agreement into the record.

18 The first matter deals with the deposition of
19 FEMA's witnesses on training issues. It's the County's
20 understanding that FEMA's testimony will be submitted to
21 all the parties by close of business August 6th. It is
22 also the County's understanding that cross-examination of
23 this panel on all the remaining issues is going to commence
24 on August 14th.

25 Now, while the County can't make any determination

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2 that this amount of time will be adequate to conduct mean-
3 ingful cross-examination and review the testimony and then
4 conduct meaningful cross-examination, the following agreement
5 has been reached. On August 9th, the County will depose
6 FEMA's witnesses on the training issues and on their
7 testimony. Also, on August 7th, the day following the
8 receipt of the testimony, the County will inform the parties
9 as to whether or not the deposition will be taken indivi-
10 dually or as a panel. The County will endeavor to try to
11 take the deposition as a panel.

12 With respect to the motion for an extension of
13 time, the County moves the Board for an extension of time
14 in which to file testimony on Contention 16.E. This deals
15 with the public education brochure and specifically the
16 issue of its description of the health effects of radia-
17 tion.

18 The reason for this is as follows: When the
19 Board set its schedule for the filing of testimony and
20 other matters regarding that testimony, one of the County's
21 chief witnesses was out of the country. It was our under-
22 standing that she would be back two days ago, that is
23 Wednesday, and that that would give us enough time to pre-
24 pare her testimony which is, under the present schedule,
25 set to be filed I believe on Monday. Apparently, our
witness has not returned from abroad and has extended her

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vacation.

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Therefore, we need to have an extension of time in which to prepare her testimony. LILCO has agreed to this extension. And also the parties have agreed that motions to strike will be done orally; no particular time has been set. Also, they have agreed that a day before the oral argument on the motions to strike, the parties will exchange a brief one-page typewritten statement briefly setting out those portions that each wishes to strike and a one-word description for the grounds for the motion to strike.

end #17 12

Reb flws13

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1 JUDGE LAURENSEN: I am sure the parties have
2 also agreed that they will supply the Board with a copy of
3 that?

4 MR. MC MURRAY: That's right, Judge Laurenson.

5 I will ask the parties whether I have left
6 anything out?

7 MS. MC CLESKEY: Well, in light of the statements
8 that you have made about the possible inadequacy of the
9 FEMA filing schedule and the juxtaposition of depositions
10 and testimony and all of that, I just want to state
11 that it is our understanding that the county has agreed
12 that it is not going to contest the adequacy of the
13 August 6 filing, followed by a deposition on August 9,
14 followed by cross-examination beginning August 14, and
15 that that was part of the agreement that led LILCO to
16 agree to a two-week extension of filing on 16.E.

17 In other words, the day after the deposition,
18 we are not going to see any motions regarding its
19 inadequacy from the county?

20 MR. MC MURRAY: We are not saying we are
21 going to file any motions. The only thing that we
22 said was that we are not conceding or agreeing that
23 between the receipt of the testimony and the time that
24 testimony is to begin, that there is adequate time to
25 review that material and prepare cross-examination.

1 We are not saying that there isn't enough
2 time. We are just saying, we haven't seen the testimony.

3 The fact is that a lot of this agreement
4 has been made in a vacuum. We understand that. We are
5 going forward with the depositions on the 9th. We are
6 going to receive the testimony on the 6th. We are
7 going to go forward with cross-examination on the 14th.

8 MS. MC CLESKEY: And Mr. McMurray, you are
9 waiving your right to file contesting motions later on?

10 MR. MC MURRAY: We are being presented with
11 circumstances beyond our control and we are going forward
12 and have no intentions of filing any motions.

13 JUDGE LAURENSEN: Is the state, the staff and
14 FEMA in agreement with all of these proposals?

15 MR. ZAHNLEUTER: The state has no problem
16 with these proposals, but the state would request copies
17 of all the testimony and correspondence in a timely manner.

18 MR. GLASS: Certainly, FEMA agrees.

19 MR. BORDENICK: Same for the staff. We have
20 no problem with the proposals presented. We would also
21 request copies of anything that is exchanged between the
22 county and LILCO.

23 JUDGE LAURENSEN: The Board will accept these
24 agreements. We will extend the time for filing testimony
25 on the brochure, contention 16.E, from July 16, until

1 July 30. And we will further accept the suggestion that
2 motions to strike be done orally on that testimony.

3 One other matter, while we were having our
4 discussion off the record, Mr. Bordenick indicated that
5 the staff now has a date on which it will file its
6 testimony on contention 11.

7 MR. BORDENICK: Yes, we do. Judge Laurenson,
8 that date is July 25, 1984, and as I indicated off the
9 record, I will discuss with the parties a time for
10 the staff to present that testimony. In my own mind
11 I am thinking of the second week of the three-week
12 session scheduled in August, but I will pursue it with
13 the parties and we will get back to the Board.

14 JUDGE LAURENSEN: At this time Judge Shon will
15 present the Board's ruling on LILCO's motion to admit
16 supplemental and revised testimony on contentions 85 and 88.

17 JUDGE SHON: In filings, dated July 3, 1984,
18 LILCO moved for the admission of supplemental testimony
19 on contention 85, recovery and reentry, and revised
20 testimony on contention 88, dose criteria and cost
21 benefit analysis for reentry.

22 The testimony was in each case attached.

23 Both of these proposed pieces of testimony
24 reflect changes which occurred in the LILCO transition
25 plan in revision 4. Fundamentally, these changes were

1 made in response to comments made by the regional
2 assistance committee of FEMA in its report, dated
3 February 10, 1984.

4 The material on contention 85 also answers in
5 part certain criticisms leveled by Suffolk County
6 witness Gregory Minor in his testimony filed March 21, 1984,
7 and the change in the testimony addressing contention 88
8 accommodates, at least in part, a concern expressed by
9 Suffolk County in contention 88.

10 Specifically, both FEMA/RAC and Mr. Minor
11 criticized the plan for failure to calculate total
12 population dose prior to reentry. The supplemental testimony
13 on contention 85 describes the calculation scheme added
14 to OPIP 3.10.1 to fill this gap.

15 The revised testimony on contention 88 reflects
16 changes made in recovery and reentry provisions which, one,
17 change the radiological reentry criteria from criteria
18 founded on disintegrations per second to criteria founded
19 on population dose; and two, change the criteria for
20 temporary reentry from criteria founded upon cost benefit
21 ratios to criteria founded on EPZ Protective Action Guides.

22 The changes are an attempt to meet a concern
23 expressed by FEMA/RAC. They also answer concerns expressed
24 by Suffolk County in contention 88.

25 We have set forth four tests which must be met

1 for the admission of rebuttal or supplemental testimony.
2 One, the testimony must be relevant to an important
3 point in the original testimony. Two, it must be relevant
4 to some decisional aspect of the case.

5 Three, it must not be cumulative. Four,
6 movement must show that the material could not have
7 been filed earlier.

8 LILCO, in its motions, does not address these
9 four points precisely. It does, however, note that the
10 proffered material on contention 85 is limited to an
11 addition to the plan which was made in response to the
12 FEMA/RAC report and which also responds to the concerns
13 in Mr. Minor's testimony.

14 As regards timing per se, LILCO notes only
15 that efficiency also commends filing this supplemental
16 testimony now, rather than as rebuttal testimony after
17 questioning Mr. Minor. That is, LILCO would deem it
18 inefficient to file even later than that.

19 Presumably, the material was not filed earlier
20 because revision 4 was only recently released.

21 In the motion regarding the revised testimony
22 on contention 18, LILCO argues only that, "LILCO's
23 prefiled testimony on contention 88 no longer is an
24 accurate representation of the recovery and reentry
25 provisions of the LILCO transition plan. In order for LILCO

1 to make its testimony accurate as of the date of the
2 hearing, it is necessary to file revised testimony on
3 contention 88 at this time."

4 This morning we heard argument from the other
5 parties with regard to the proposed material. Suffolk
6 County notes that both pieces of testimony are founded
7 upon revision 4, a revision which Suffolk County has had
8 no chance to review.

9 With regard to the material on contention 85,
10 Suffolk County argues that, one, it does not relate to
11 LILCO's original testimony but addresses matters
12 never mentioned therein. And two, it is untimely.

13 Suffolk County argues that the FEMA/RAC report
14 has been available since March. The Minor testimony
15 since March. Even LILCO's reply to FEMA/RAC is two
16 months old. In Suffolk County's view, this testimony
17 could have been filed earlier, since LILCO surely knew
18 of the modifications before revision 4 was circulated.

19 Suffolk County would urge that if this
20 material is admitted, Suffolk County be allowed time
21 to reply.

22 As for the revised testimony on contention 88,
23 the county deems it also untimely and for the same reasons.
24 Curiously, Suffolk County would characterize both matters
25 as rebuttal to Mr. Minor, thus suggesting that they

1 might be more timely had then been filed later.

2 The State of New York supports Suffolk County.
3 The state points out that LILCO has presumably taken
4 April, May, and June to prepare this material, knowing
5 all the while that the changes would be made. Thus,
6 the county and the state should not be forced to respond
7 in a matter of days.

8 Staff has no objections to admitting the
9 proffered testimony.

10 We have carefully considered the positions of
11 the parties. At the outset, we note that we can
12 hardly exclude material which presents the plan as it is,
13 rather than as it was. To litigate the adequacy of
14 planning features which no longer exist would be to
15 follow Alice right through the looking glass.

16 Clearly, however, this material could have been
17 offered earlier. How much earlier, we have no way of
18 knowing. Clearly, also, the county and the state
19 must, in fairness, be given some chance to review it
20 and to prepare a reply.

21 The material is neither lengthy nor complex.
22 We believe that the parties can readily come to some
23 accommodation on the matter of scheduling the testimony
24 and any responding testimony without the Board's setting
25 fixed dates at this time.

1 The motion to admit supplemental and revised
2 testimony on contentions 85 and 88 is granted. We will
3 expect the parties involved to report on next Tuesday,
4 July 17, regarding the arrangements that they have made
5 to schedule this testimony and any testimony in reply.

6 JUDGE LAURENSEN: Thank you, Judge Shon.

7 I think there was one statement there about
8 contention 18 that should have been 88. Just so -- I
9 think I heard 18 at one point. Just to make sure,
10 we are only talking about 85 and 88. I think that should
11 be clear.

12 Pursuant to the Board's earlier decision
13 concerning allocation of time this afternoon, we will
14 turn the questioning back to the county at this point.

15 MR. MILLER: Thank you, Judge Laurenson. I
16 am just going to pursue a few follow-up questions, based
17 upon the questions of Mr. Zahnleuter and Ms. McCleskey,
18 and then Mr. McMurray will continue with his questions.

19 CROSS-EXAMINATION

20 BY MR. MILLER: (Resuming)

21 Q Gentlemen, you were all asked by Ms. McCleskey
22 to list for her the plants that you have -- the plants,
23 I should say, the off-site emergency plans that you have
24 reviewed for particular nuclear power plants.

25 Do you recall those questions?

1 A (Witness Baldwin) Yes.

2 Q I would like to ask you --

3 A (Witness Keller) I think that your statement
4 is a mischaracterization of what I thought Ms. McCleskey
5 asked us. Maybe I was wrong in what I thought she
6 asked.

7 I believe her question was, what sites have
8 you reviewed plans for, or participated in exercises for.

9 And I think your statement, your question was,
10 what sites have we reviewed plans for.

11 At least as far as my case is concerned, I
12 lumped both of those together, as I thought I characterized
13 her question.

14 Q Thank you, Mr. Keller.

15 Is that the case for the rest of the panel?

16 A (Witness Baldwin) Yes, it is for me.

17 Q Let me ask, did any of the plans and nuclear
18 plants that you listed for Ms. McCleskey involve a
19 utility off-site emergency response plan?

20 A No.

21 A (Witness Kowieski) I can -- let me explain
22 the situation that -- we had a situation around Indian
23 Point. Rockland County, which is one of the four
24 counties located, at least portion of Rockland County is
25 located within ten-mile EPZ, at one point decided to

1 withdraw from the four-county planning process, as
2 well as not to cooperate with the state, especially
3 federal government.

4 In response, the state of New York -- actually,
5 the governor directed the lieutenant governor to develop
6 compensating plan for Rockland County. Such a plan
7 was developed, and the concept of the plan was to
8 substitute for Rockland County resources. And the substitute
9 came from the state and both utilities, PASNE as well
10 as Con Ed.

11 Q Mr. Kowieski, excuse me. Time is short.
12 I think the panel, the parties, and the judges are
13 aware of the Indian Point situation.

14 Is it fair to say that Indian Point was never
15 an emergency response plan sponsored solely by the utility?

16 A That is correct.

17 Q And in Shoreham, it is the case that it is a
18 utility who is sponsoring this plan, solely a utility,
19 correct?

20 A That is also correct.

21 Q And there is no governmental involvement
22 by either local or state government with the LIILCO plan,
23 correct?

24 A There is involvement of Brookhaven National
25 Labs.

1 Q Local or state government, I said.

2 Do you consider Brookhaven to be a local
3 government agency?

4 A I understood your question, other governments.
5 I referred to the federal government. The federal
6 government, in this case DOE, agreed to assist LILCO
7 in case of radiological emergency.

8 Q You would agree with me, Mr. Kowieski, that
9 there is no local or state government involvement
10 with Shoreham; isn't that correct?

11 A (Witness Keller) It is my understanding that
12 Connecticut, which is a state government, says that it
13 will implement protective measures, if required, within
14 the 50-mile EPZ, as it appears to Connecticut.

15 Q Mr. Keller, I would love to explore your
16 understanding further. I think there is an agreement
17 that contention 24.R would come up in August, and I will
18 abide by that agreement. We will discuss it in August.

19 Mr. Kowieski, let me ask you, Ms. McCleskey
20 also asked for some clarification, I suppose, from a
21 question I had asked you earlier in the week.

22 I think what you have told Ms. McCleskey is
23 that the declaration of a protective action recommendation
24 must be made within 15 minutes to the public; is that
25 correct?

1 (Witnesses conferring.)

2 A (Witness Kowieski) Fifteen minutes after
3 notification, yes.

4 A (Witness Keller) Time is short, but if you
5 would let me try. There are two 15 minutes involved.
6 One is a requirement which is basically an on-site
7 requirement which requires the utility to notify the
8 off-site people that an emergency is in progress, once
9 they have made a determination of what the level of
10 emergency is. That is one 15-minute requirement.
11 Okay?

12 And in this case, that would involve LILCO
13 talking to local LERO.

14 Q Could I interrupt you, Mr. Keller. That first
15 requirement that you have just mentioned, isn't it
16 the case that that first requirement for 15 minutes begins
17 with the declaration of the emergency at the plant?

18 A Once they have established that they truly have
19 an emergency, that is correct.

20 Q Fifteen minutes to notify off-site response,
21 correct?

22 A That is correct.

23 Q And in this case, that is LERO, is that correct?

24 A That is correct, but that is primarily an on-site
25 requirement, and we really don't get involved with that

1 except insofar as our review of off-site capability is
2 concerned, that somebody is there to receive that.

3 And whether or not the initiation of that
4 message is within the required time is really an on-site
5 function which is strictly in the province of NRC.

6 Q Would it be fair to say, Mr. Keller, that
7 notification to LERO with respect to this first 15 minutes
8 you have talked about would be notification to key
9 emergency response personnel --

10 A No.

11 Q -- of LERO?

12 A No, that is not correct.

13 Q Who do you say notification --

14 A The notification of the Hicksville customer
15 service office constitutes adequate provision for receiving
16 this initial notification off site.

17 Q And that is your opinion, sir.

18 A That is the opinion of the RAC, I believe, and
19 the members of the panel.

20 A (Witness Kowieski) That is correct. That is
21 opinion of RAC.

22 Q The opinion of RAC is that notification from
23 the plant to customer service office must take place
24 within 15 minutes and that such notification would
25 satisfy the requirements of 15-minute notifications to

1 off-site response; is that correct?

2 A (Witness Keller) That is correct.

3 Q Can you tell me the basis for the RAC's
4 opinion in that regard?

5 A NUREG 0654.

6 Q Where in NUREG 0654?

7 A Well, as I said, this really is an
8 on-site issue and should be approached with NRC.

9 The off-site portion of this issue is concerned
10 solely with the fact, or the lack thereof, that there is
11 an ability to receive this initial notification. Okay?

12 And we have testified that according to the
13 plan, the customer service office at Hicksville is manned
14 24 hours a day.

15 We judge that that would be adequate.

16 Q Yes, sir.

17 I am asking the basis for that judgment. If it
18 is your personal opinion, that's fine.

19 A Plan review.

20 Q And you are saying that the RAC committee addressed
21 this issue?

22 A This issue is addressed in every plan review
23 because we have to look at whether or not they have
24 the ability to receive the initial notification.

25 Q Could you point me in the RAC report to where it

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is stated that this capability of notification within
15 minutes to off-site response is satisfied by the LILCO
plan?

END 18

1 A (Witness Keller) Give me a moment. It is
2 basically under criteria element E, specifically E.1.

3 Q Mr. Keller, criteria E.1 says that each
4 organization, and in this case that will be LILCO, correct?

5 A That is correct.

6 Q Shall establish procedured which describe
7 mutually agreeable basis for notification of response
8 organizations. Are you telling me that you consider a
9 customer service operator in the Hicksville office to be
10 a response organization?

11 A Yes, I do.

12 Q That is an interesting conclusion , Mr. Keller,
13 and that is why I am asking you to give me the basis for
14 that conclusion.

15 A The customer service center in Hicksville has
16 a response role. That role is the first -- in its initial --
17 is to receive the initial notification from the control
18 room. And actually, I guess for symantic purposes, or
19 whatever, prior to that initial notification, Hicksville
20 is a LILCO function.

21 After the initial notification, Hicksville
22 be comes LERO, or a portion of LERO.

23 Q Yes, sir. And when customer service office
24 receives notification from the plant, customer service office
25 is supposed to, under the context of an emergency at the plant,

1 immediately provide notification to emergency response
2 personnel, specifically key emergency response personnel,
3 isn't that correct?

4 A That is correct. That is the second part of
5 their emergency response function.

6 Q But you exclude this notification of key
7 emergency response personnel from the fifteen minute require-
8 ment?

9 A That is correct, and this is on the basis that
10 this is what is done in every other emergency plan that we
11 have seen.

12 Q Well, you have never seen an emergency plan where
13 there has been notification given to an operator in a customer
14 service office, have you?

15 A That is correct. We have seen it where they have
16 been given to firemen, to policemen, to other officials.

17 The fifteen minute initial notification is from
18 the onsite people to the offsite people, and since in this
19 case it is the same entity, however, our assumption is that
20 as soon as that initial call comes in, the previous LILCO
21 people now become LERO people, but it is, according to the
22 concept of this Plan, the offsite response organization is
23 called LERO.

24 Now, they are made up of LILCO employees and
25 a few volunteers, et cetera, but it is primarily LILCO

1 employees.

2 Q And is it fair to say, Mr. Keller, that what
3 you are telling me is that a single operator in the customer
4 service office in Hicksville, once notification is received,
5 would constitute LERO?

6 A At that instant, that is correct.

7 Q I would love to talk to you further about it,
8 Mr. Keller, but I am going to have to move on.

9 Mr. Kowieski, you were asked -- let me go back
10 to where I think we started with this. In terms of
11 declaration of the emergency at the plant, and in terms of
12 providing notification to emergency response personnel and
13 providing notification to the public -- okay, two separate
14 things, correct, do you agree?

15 A (Witness Kowieski) I do. I am sorry, inter-
16 connected but, you know, it is two separate issues.
17 Notification of emergency response personnel, and notification
18 of the public; two separate issues, yes.

19 Q And isn't it correct, Mr. Kowieski, that under
20 certain situations notification to emergency response
21 organizations, LERO in this case, and notification to the
22 public could be required to be performed at essentially the
23 same time?

24 A Again, as we already testified, in a likely
25 event when the plant status will reach general emergency,

1 obviously the LERO local response director would be basically
2 notified by Hicksville customer service office about the
3 emergency, and he, in turn, would direct Hicksville office
4 to activate alert notification system.

5 Q I am not sure that you understand my question,
6 Mr. Kowieski. Let me try to make it a more particular
7 question. If you have, for example, a site area emergency,
8 and the decision is made to activate the sirens at that
9 level, which is possible under the LILCO Plan, would you
10 agree?

11 A (Witness Keller) That is a possibility, yes.

12 Q Now, isn't it possible that the decision to
13 activate the sirens, thereby notifying the public, and the
14 decision to notify LERO would begin at essentially the same
15 time.

16 A No.

17 Q That is not possible.

18 A Because you have a fifteen minutes when decision-
19 maker -- when message is received, there is a general
20 emergency at the plant, or site emergency, and in the opinion
21 of the decision-maker there is a need to activate the
22 alert notification system, there is a provision in NUREG
23 0654 that there is fifteen minutes -- that alert notification
24 system, as well as the message itself, the EBS message, should
25 be issued in fifteen minutes.

1 A (Witness Keller) I think maybe this will
2 clarify, and maybe not. I will try.

3 The second fifteen -- I think we cleared up
4 the first fifteen minutes. That is our opinion of it,
5 but you don't agree, apparently, but at least our opinion
6 the first fifteen minute requirement. The second fifteen
7 minute requirement is a requirement of fifteen minutes
8 after the decision-maker, whoever he may be, makes a decision
9 that a protective action is warranted, the public must be
10 notified within fifteen minutes of that decision.

11 Q Mr. Keller, would you agree with me that -- here
12 is my scenario, and hopefully we can move on. An emergency
13 happens at the Shoreham plant requiring notification to the
14 public. Within three minutes, the director of local response
15 is notified, and immediately decides we must notify the
16 public.

17 Would you agree with the notification to the
18 public under this scenario, must be made within eighteen
19 minutes from the time the emergency was declared at the
20 plant?

21 A Under your scenario, as I understand it, that
22 is correct.

23 Q Mr. Zahnleuter asked some questions regarding
24 the NAWAS, whatever -- the N-A-W-A-S communications system.
25 I just want to ask a question, having reviewed these letters.

1 Is it fair to say that the NAWAS communications
2 drop, or system, at the Shoreham plant is required to be
3 in place prior to fuel load?

4 A (Witness McIntire) There is no requirement
5 for a NAWAS drop at Shoreham. An offsite requirement.

6 Q Is there an onsite requirement? Is that what
7 you are saying.

8 A We don't know.

9 A (Witness Keller) Fuel loading is an onsite
10 situation.

11 Q Have you seen this March 1, 1984 letter, Mr.
12 McIntire, or anyone on the panel? The letter from Mr.
13 Mandell to FEMA -- Mr. Mandell is with LILCO.

14 MR. GLASS: Mr. Miller, just to clarify, do you
15 want to identify these as exhibits?

16 MR. MILLER: Not really. I just really want
17 to ask the question, this letter seems to state, and in
18 fact, let me just read the sentence, It says: --

19 MS. McCLESKEY: I object to Mr. Miller reading
20 parts of documents into the record, if he is not going to
21 try to enter them into the record as an entire document.

22 MR. MILLER: I am trying just to get a clarification
23 on a point, Judge Laurenson.

24 JUDGE LAURENSEN: Are you objecting to him
25 referring to the document?

 MS. McCLESKEY: My understanding was he was

1 preparing to read portions of it into the record.

2 MR. MILLER: I want to read a portion of a
3 sentiece and ask Mr. McIntire if he can tell me what it
4 means, yes.

5 JUDGE LAURENSEN: Do you have copies of that
6 document?

7 MS. McCLESKEY: Yes, sir. I believe we were
8 all provided copies by FEMA.

9 JUDGE LAURENSEN: The Board doesn't have any.
10 The witnesses don't, either.

11 MR. GLASS: They were provided yesterday. They
12 were given out.

13 MR. MILLER: Judge Laureson, I am referring
14 to the March 1, 1984 letter, and I want to ask one question.

15 JUDGE LAURENSEN: You didn't give us these.

16 MR. GLASS: I have the letter.

17 MR. MILLER: Judge Laureson, I would like to
18 ask my question, and then I think Ms. McCleskey if she
19 has an objection, can make the objection. There is no
20 question pending right now.

21 My question, Mr. McIntire, if you have the
22 March 1 letter in front of you, there is a statement from
23 Mr. Mandell, of LILCO, to FEMA, which says: We have been
24 under the . . . resion that completion -- and he is talking
25 about completion of an NAWAS -- is required prior to fuel
load.

1 Do you see that statement?

2 MS. McCLESKEY: I object to the question, because
3 if it is an onsite matter as these witnesses have testified,
4 it is irrelevant to any of the contentions in this proceeding.

5 MR. MILLER: These witnesses brought up the
6 issue of this communications system yesterday or the day
7 before, and I think there is confusion on the record, and
8 I am trying to clarify it.

9 MS. McCLESKEY: Well, my recollection is that
10 they brought it up because they were asked about it,
11 but in any event --

12 MR. MILLER: If is not because they were
13 asked about it, Ms. McCleskey, because I had never heard
14 of the system before I asked the question.

15 MS. McCLESKEY: I am not sure how reading
16 portions of letters that you are not attempting to get
17 into the record, and asking the witnesses about onsite
18 matters is going to clarify the record.

19 MR. MILLER: I am trying to determine whether
20 this is an onsite matter.

21 JUDGE LAURENSEN: The FEMA witnesses have
22 already answered the question that they are unaware of
23 any such requirement as an offsite matter, and I don't
24 know that a letter from someone at LILCO addressed to FEMA
25 clarifies that matter at all, since it doesn't address the

1 specific question.

2 MR. MILLER: My question is: Is this system,
3 if it is -- whether it be an onsite or offsite system --
4 required to be in place prior to fuel load?

5 JUDGE LAURENSEN: Well, we can't go into that
6 if it is onsite. Our limitation on jurisdiction is only
7 to hear offsite emergency planning matters, and they have
8 indicated their answer to the extent of our jurisdiction
9 to inquire into the matter.

10 MR. MILLER: Let me try another question, Judge
11 Laurenson. I withdraw my last question, I suppose.

12 Well, I don't withdraw the question. Is the
13 Board ruling that the objection to the question is sustained?

14 JUDGE LAURENSEN: Yes, it is sustained.

15 BY MR. MILLER: (Continuing)

16 Q Mr. McIntire, do you know whether this NAWAS
17 communications system has any offsite consequences?

18 A (Witness McIntire) It is our understanding it
19 is not referenced in the Plan, and it is not part of a formal
20 offsite requirement.

21 Q Mr. Keller, you were asked by Mr. Zahnleuter
22 about the signature page format which is referenced on
23 page 12 of your testimony. Is it fair to say, Mr. Keller,
24 that under the LILCO Plan, because there is no involvement
25 by the local or state government, that there is no instance

1 where a signature page format would be adequate in lieu
2 of formal letter of agreement?

3 A (Witness Keller) That is what I thought I
4 testified when I was asked the first time, and I would say
5 so again.

6 Q I was just trying to clarify. I thought that
7 is what you said, also.

8 A I will say it again.

9 Q Mr. Kowieski, there was some discussion with
10 Mr. Zahnleuter about this language, 'adequate, provided
11 that ..' and when that language was added or placed into
12 the formal RAC report that was released to the NRC.

13 Let me ask you sir, I take it that it is fair
14 to say there is some line drawing that has to be done
15 between determining whether a NUREG element is inadequate,
16 or whether it could be rated adequate provided that
17 something would be done in the Plan. Is that a fair
18 statement?

19 A (Witness Kowieski) Yes.

20 Q And I take it that you used professional judgment
21 in making that determination, is that correct?

22 A NUREG. What was contained in the Plan, and
23 professional judgment, sure.

24 Q And as Mr. Keller has pointed out, some of the
25 elements rated, 'adequate provided that ..' the language

1 was added following the January 20th meeting, and not reviewed
2 by anyone on the RAC Committee other than yourself and Mr.
3 Baldwin, is that correct?

4 A Just the term, 'provided that ..', yes, that
5 is correct.

6 MR. MILLER: Judge Laurenson, I am going to
7 turn the microphone over to Mr. McMurray.

8 CROSS EXAMINATION

9 BY MR. McMURRAY:

10 Q Mr. Keller, I just want to clarify something
11 I thought you might have implied earlier in response to some
12 questioning. I believe it was by Mr. Zahnleuter and some
13 follow up questioning by Judge Kline.

14 I understand, and I think we have established
15 that the RAC does not go out and try to verify things in
16 the Plan, okay? Isn't that correct?

17 A (Witness Keller) That is correct.

18 Q Thank you. Now, I understand you don't actively
19 go out and try to verify something, but let's say that
20 information is presented to the RAC. For some reason,
21 information falls in your lap. Let's take a hypothetical.

22 For instance, you hear that a RECS line which
23 is mentioned in the Plan does not actually exist. Now,
24 under normal circumstances, do you then try to verify
25 whether the RECS line exists, or not?

1 A First, if information comes to our attention,
2 falls in our lap, appears on our table, we would consider
3 it. And the major thing in what we would do after looking
4 at this information, would be -- specific about this RECS
5 line -- if the Plan involved the use of this RECS line in
6 a substantive way to protect the people, or to -- yes, to
7 protect the people, right?

8 That would be quite a concern, and I am sure
9 we would follow that up.

10 In the case of the RECS line and the present
11 Plan, the RECS line is basically a courtesy notification
12 system, since the State has diavowed any interest or any
13 desire to do anything. The fact the RECS line between the
14 LILCO control room and the State warning point is no longer
15 there, if it ever was there, is of little consequence, and
16 would probably not require a follow up.

17 Q Focusing not necessarily on my hypothetical, but
18 on the principle, you are saying, though, that if you do
19 receive information, even though you have not actively tried
20 to receive it, you can't avoid it -- it just falls on your
21 desk, you then will review that information to see how
22 it affects the adequacy of the Plan, correct?

End 19. 23
Sue fols.

24

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2 A (Witness Keller) That is correct. And if it
3 affects the plan in some substantial way, I would presume
4 we would follow up.

5 (Witness McIntire) Although we usually prefer
6 receipt of such information through some sort of formal
7 submission with the name of a contact or something like
8 that that we can, you know, contact.

9 Q Mr. Keller, let me refer you to Page 56 of your
10 testimony regarding selective sheltering. On Page 56,
11 you refer to Table 3.6.1 of the plan; is that correct?

12 A (Witness Keller) That is correct.

13 Q On Table 3.6.1 -- Table 3.6.1 does not specifi-
14 cally mention selective sheltering as a protective action
15 recommendation, correct?

16 A I haven't found it yet, but my recollection is
17 that that is correct.

18 However, I think the reason we reference that
19 is because, as we quote from the plan, the selective
20 sheltering option is considerable only if the projected
21 dose, with the sheltering factors, are below the PAG values
22 which are tabulated in Table 3.6.1.

23 Q Doesn't the EPA PAG Guide, which is Table 3.6.1,
24 set out protective action recommendations for doses below
25 the PAG Guide limits, that is one rem whole body and five
26 rems thyroid?

#20-2-Sue T

1 A My reading of this table shows in the first
2 block, in the center of the table, no planned protective
3 actions. LERO may issue an advisory to seek shelter and
4 to await further instructions.

5 Q So, it does mention what could be done below
6 those limits, and one of those considerations is not
7 selective sheltering, correct?

8 A That is correct. But what is -- my interpreta-
9 tion of what is listed in this center block states: Issue
10 advisory to seek shelter and await further instructions.

11 That advisory would be for the total population,
12 not for the radiosensitive population, i.e. the pregnant
13 women and children. The selective sheltering option would
14 be lower than this, at projected doses lower than this,
15 unspecified.

16 Q So, Table 3.6.1 just doesn't address this?

17 A No, but it does address the PAGs --

18 Q Right.

19 A -- which are listed, and in the selective
20 sheltering discussion it says you only consider selective
21 sheltering when doses are below the PAGs. This table in-
22 cludes the PAGs; therefore, the two are linked.

23 Q In your opinion, the fact that selective shelter-
24 ing is not mentioned in Table 3.6.1 offers adequate guidance
25 for recommendation of selective sheltering?

#20-3-SueT

1 A The fact that it's not in the table doesn't up-
2 set me any, no.

3 Q I'm saying, you seem to use that as -- the fact
4 that it doesn't exist as supportive of your testimony.

5 A Is that a question?

6 Q Is that correct?

7 A I don't understand your question.

8 Q You have stated that 3.6.1 does not mention
9 selective sheltering as a protective action, correct?

10 A That's correct.

11 Q So, Table 3.6.1 does not offer guidance or guide-
12 lines regarding the implementation of selective sheltering,
13 correct?

14 A That is correct.

15 Q In your opinion, does the LILCO plan contain
16 adequate guidelines for determining when selective shelter-
17 ing will be recommended?

18 A Yes.

19 Q And is that based solely on the printed portion
20 of the plan appearing in your testimony on Page 56?

21 A That, and recognizing that you have to be able
22 to identify what the PAG dose values are, yes.

23 In addition, as we have already testified, under
24 the current situation this is an option which in my opinion
25 can never be exercised for the following reasons.

#20-4-SueT¹

Q I think you stated those reasons.

2 A Let me finish, if you will. If the State
3 decides to actively participate at some later date, for
4 whatever reason, then I would assume that this plan would
5 be completely disposed of and we would have a normal
6 sequence plan.

7 Q Let's go to your testimony on loss of offsite
8 power, gentlemen.

9 A Where are you referring, please?

10 Q Page 96 of your testimony, Contention 95.

11 A Thank you.

12 Q It's true, is it not, that the LILCO Transition
13 Plan does not have a source of backup power; isn't that
14 correct, Mr. Keller? You can answer yes or no.

15 A The LILCO plan has no backup power, that's
16 correct.

17 Q The LILCO plan doesn't indicate whether the
18 siren system has a source of backup power, correct?

19 A That is correct.

20 Q And you don't know other -- so, you have no
21 reason to believe it has a source of backup power, correct?

22 A That it does not have, that is correct.

23 Q Are you aware of a storm this Spring which caused
24 loss of power to at least ten of the sirens in the EPZ
25 around Shoreham?

1 A I am unaware of the loss of power to any number
2 of sirens. I am aware there was a serious storm on Long
3 Island. I am aware that power was out for extended periods
4 in various areas of Long Island. I know nothing about
5 whether any number of sirens, one, ten or eighty-nine were
6 affected.

7 Q Well, were you or any member of the panel or
8 FEMA informed by anyone that sirens lost their source of
9 offsite power during that storm?

10 A (Witness Kowieski) To the best of my knowledge,
11 nobody in FEMA was informed that one or all the sirens lost
12 their power during the storm.

13 Q Does that cause you any concern about the LILCO
14 siren system?

15 A There is no requirement that LILCO should notify
16 FEMA about siren failure at this point.

17 (Witness Keller) Particularly for a non-
18 licensed site.

19 Q There is no requirement? You are saying that
20 there is no requirement that they inform you as to whether
21 or not the siren system works?

22 A (Witness Kowieski) At this point in time.

23 (Witness McIntire) Excuse me. I don't think
24 that was your original question. Your original question
25 had to do with notification of loss of power for a certain

#20-6-SueT 1

number of sirens. Now, you changed it I believe to the system doesn't work.

2

3

Q Work properly, and Mr. Kowieski says not at this time.

4

5

A (Witness Kowieski) Well, again, if I -- I'm sorry. I answered -- it was my follow-up answer to your first question.

6

7

8

Q You don't think this is a matter that should be of any concern to FEMA, correct?

9

10

A (Witness McIntire) There is a difference, as Mr. Keller tried to point out, between requirements and concerns of ours between non-operating and operating plants.

11

12

13

Q Do you think that LILCO's -- that the loss of offsite power to LILCO's siren system should be a source of concern to FEMA?

14

15

16

MR. GLASS: Your Honor, this has been asked and answered at least three times.

17

18

MR. MC MURRAY: It has not been. The answer keeps shifting.

19

20

MR. GLASS: If you are changing a word, but you are still getting the same response.

21

22

JUDGE LAURENSEN: The question is whether the loss of offsite power should be a concern to FEMA? Is that your question?

23

24

25

MR. MC MURRAY: Yes.

#20-7-SueT 1

2 JUDGE LAURENSEN: The objection is overruled.
3 And after the answer to this question, that will complete
4 the questioning by the County of this panel.

5 WITNESS KOWIESKI: At this time, this does not
6 concern to FEMA. However, I would like to qualify. If
7 this would be operating site, this would be a real concern
8 to FEMA.

9 JUDGE LAURENSEN: Mr. Zahnleuter?

10 MR. ZAHNLEUTER: No questions.

11 JUDGE LAURENSEN: Ms. McCleskey?

12 MS. MC CLESKEY: No questions.

13 JUDGE LAURENSEN: Mr. Glass?

14 MR. GLASS: No redirect.

15 MR. MC MURRAY: Judge Laurenson --

16 (Laughter.)

17 MR. MC MURRAY: Before I go on, let me confer
18 with Mr. Miller, please.

19 (Mr. Miller and Mr. McMurray are conferring.)

20 MR. MC MURRAY: Judge Laurenson, the County still
21 has questions regarding the FEMA testimony, and I'm asking
22 the Board whether we are barred from asking any further
23 questions.

24 JUDGE LAURENSEN: We gave you a choice of
25 procedures to follow when we started into this on Tuesday.
Have you determined where you plan to make your election?

#20-8-SueT 1

2 MR. MILLER: Judge Laurenson, based on the
3 options given to the County on Tuesday, which I'm looking
4 at now in the Transcript Page 12,146, the County would
5 elect of those two choices to file the written offer of
6 proof. And the way I read your ruling, that offer of
7 proof would include, if the County decides it is necessary,
8 a motion for reconsideration asking the Board to provide
9 more time to the County to pursue questions during the
10 week of August 14th with FEMA witnesses.

11 JUDGE LAURENSON: Let me ask the question this
12 way. If you had an extra half an hour or so, would that
13 eliminate the need of the County to file this request?

14 MR. MILLER: No, sir.

15 JUDGE LAURENSON: I'm sorry. Your answer is?

16 MR. MILLER: No, sir.

17 JUDGE LAURENSON: I think then perhaps to make
18 the record clear as to what our intention is that the
19 County should go forward and file its written request, and
20 all parties will be heard on that.

21 But insofar as this hearing is then concerned,
22 the Board is presently determining that the testimony from
23 the FEMA witnesses concerning the thirty-three contentions
24 identified in the letter that I believe was captioned
25 "Ground Rules for FEMA Witnesses" or something to that
effect, that area of testimony will be closed unless the

#20-9-SueT

1 County is able to persuade us that the matter should be
2 reopened.

3 MR. MILLER: Judge Laurenson, let me just make
4 a quick statement. And I think the Board understands
5 the County's position.

6 The County never intended, nor did it ever
7 agree, as Mr. Glass has intimated to the Board off the
8 record I believe, that we felt questioning of this FEMA
9 panel on all the issues listed in that letter could be
10 concluded within this one week. It's clear from the time
11 estimates in our cross-examination plan of four to five
12 days that we never would have made such an agreement.

13 And we do intend to pursue the second option
14 offered by the Board. But I want to make clear a couple
15 of things. First of all, what we intend to do at this
16 time is to review the transcripts from this week, make
17 a determination as to whether we would feel it would be
18 prudent and advisable to put into the record an offer of
19 proof in this matter, including the emergency reconsidera-
20 tion.

21 We have further questions to pursue but we are
22 going to look at the transcripts and try to make a decision
23 which would be a fair decision, in our opinion.

24 In addition, Judge Laurenson, we would request
25 that the Board's timing of this written offer be reconsidered.

#20-10-SueT 1 As I understand it, the Board is saying seven days from
2 today the written offer of proof must be filed. Judge
3 Laurenson, frankly we have gone through this problem before.
4 In light of the fact that Mr. McMurray and I are in hear-
5 ings, and in light of the fact that we are the attorneys
6 responsible, we simply cannot commit to meeting a deadline
7 seven days from today to file any written offer of proof
8 and motion for reconsideration.

9 Between now and the end of next week, there are
10 obviously going to be many other matters requiring our
11 attention and our time. I would suggest, Judge Laurenson,
12 that our written offer of proof, if we indeed file one,
13 would be required to be filed on Wednesday, August the
14 1st. I suggest that date because that is three business
15 days after the end of the July hearing schedule. It would
16 permit the parties to still respond within seven days; that
17 is, by August the 8th. And it would still permit the Board
18 almost a week to rule before the FEMA witnesses came back.

19 And I think in that way the County would not be
20 prejudiced by having to try to prepare such an offer of
21 proof and continue with the hearings at the same time.

22 JUDGE LAURENSEN: You are taking eighteen days
23 for yourself but you are limiting them to seven days, then.

24 MR. MILLER: Well, Judge Laurenson, in all
25 fairness I think the preparation of the offer of proof and

#20-11-SueT 1

2 the motion for reconsideration certainly would require more
time and effort than a response.

3 And, secondly, I can assure you that it's not
4 that we are going to use eighteen days. What I'm saying
5 to the Board is that in light of the workload facing the
6 County and the lawyers for the County right now, we will
7 prepare that offer of proof, if the Board would accept
8 my proposal, probably beginning July 28th which is the day
9 the hearings end during this three week schedule.

10 So, it would give us the week-end and two full
11 business days before we would have to file.

12 MR. GLASS: I have some concern about our ability
13 to be able to respond, since we are the main party that is
14 being affected in this matter.

15 We -- I am already committed to be in Washington
16 that particular week, the week of the 1st. I realize the
17 County will probably accommodate me and provide copies to
18 me down in Washington. But I am there in another meeting.
19 We are bringing -- our witnesses are down there on other
20 meetings and matters and are trying to work on their
21 testimony. They are bringing people in to try to work on
22 their testimony.

23 We are filing our testimony on the 6th, and I
24 do want to have an opportunity to at least confer or review
25 what my witnesses are doing. And that does not leave me any

#20-12-SueT 1

time to really respond.

2 We have depositions. It just is not giving me
3 an adequate time at all.

4 MS. MC CLESKEY: Without belaboring the point,
5 LILCO would oppose an extension from the schedule set out
6 by the Board. We are all busy, and I don't think the other
7 parties should have to compensate to allow the County to
8 allocate resources. You know, they have other people that
9 can be working on these issues.

10 MR. MILLER: I have made a statement in that
11 regard before, Judge Laurenson. We do not have other
12 people to work on these issues.

13 (The Board members are conferring.)

end #20 14

Reb flws 15

JUDGE LAURENSON: We have considered the re-
16 quest for an extension of time. And frankly, we feel that
17 since the County has already spent two and a half to three
18 days this week questioning this panel of witnesses there
19 really can't be that much left that is going to take a
20 lot of time to make up an offer of proof. But in order
21 to give the County a few extra days we will, instead of
22 requiring this to be filed in seven days we will extend it
23 to ten days.

24 The County's response will then be due on
25 Monday, July 23rd. All other parties will also be given
the same period of ten days to respond. Their responses
will be due on Thursday, August the 2nd.

1 That will then give us an opportunity to
2 decide this motion and to notify all parties before we
3 restart the hearing in August on the 14th.

4 MR. MILLER: Thank you, Judge Laurenson.
5 We will endeavor to meet that date of July 23.

6 JUDGE LAURENSEN: Anything else before we
7 close the record for the day?

8 (No response.)

9 The hearing is adjourned. We will reconvene
10 here at 10:00 a.m. with the county's panel on training
11 witnesses next Tuesday.

12 (Thereupon, at 5:25 p.m., the hearing was
13 adjourned, to reconvene at 10:00 a.m., Tuesday,
14 July 17, 1984.)

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END 21

CERTIFICATE OF PROCEEDINGS

1
2
3 This is to certify that the attached proceedings before the
4 NRC COMMISSION

5 In the matter of: LONG ISLAND LIGHTING COMPANY

6 Date of Proceeding: Friday, July 13, 1984

7 Place of Proceeding: Hauppauge, New York

8 were held as herein appears, and that this is the original
9 transcript for the file of the Commission.

10
11 Garrett J. Walsh, Jr.

Official Reporter - Typed

12
13 *Garrett J. Walsh, Jr.*
14 Official Reporter - Signature

15 Myrtle H. Traylor

Official Reporter - Typed

16 *Myrtle H. Traylor*
17 Official Reporter - Signature

18 Rebecca E. Eyster

Official Reporter - Typed

19 *Rebecca E. Eyster*
20 Official Reporter - Signature