

LILCO, July 19, 1984

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

OFFICE OF THE  
DIRECTOR OF NUCLEAR SERVICE  
BRANCH

Before the Commission

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

LILCO'S MOTION FOR  
RECONSIDERATION OF THE  
COMMISSION'S JULY 18 MEMORANDUM AND ORDER

On July 18, 1984, the Commission issued a Memorandum and Order concerning Suffolk County's "Motion for Directed Certification of June 20 ASLB Order Granting LILCO's Motion in Limine." The Commission's order neither granted nor denied the County's motion but rather provided guidance on security matters to the Board and parties. The Commission, however, expressed no views on whether, under the facts in Shoreham, any security issues should be litigated. For the reasons stated below, we ask the Commission to reconsider its Memorandum and Order.

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On July 16, LILCO filed a response to SC's Motion for Certification by placing it in first class mail in accordance with applicable Commission regulations. Long Island Lighting Company's Response to Motion for Directed Certification on Security Issues (July 16, 1984). LILCO had not been informed that the Commission intended to consider this matter on an expedited basis. As in the past, of course, the Company would have responded in an expedited fashion if the Commission had so desired.

On the morning of July 17, the Office of General Counsel (OGC) inquired as to whether LILCO intended to respond to the County's Motion for Certification because the Commission was considering the issue that morning. LILCO indicated that it had filed a timely response by first class mail. As a result of the phone call, LILCO immediately made efforts to get a copy of the pleading to the General Counsel on an expedited basis. Although a copy of LILCO's pleading was provided to the General Counsel by approximately 11:00 am on the 17th, a complete version of the response, including its voluminous attachments, was not requested by OGC until approximately midday; it was delivered to OGC from Richmond later that afternoon. LILCO was informed at approximately 9:30 the next morning, July 18, that the Commission had already issued an order on the County's motion. From this sequence of events, it seems likely that the Commission was not able to consider fully LILCO's response to

the County's motion. Significantly, the order did not acknowledge LILCO's response nor did it address LILCO's arguments. Thus, LILCO believes the Commission acted prematurely in issuing its Memorandum and Order on the 18th and should reconsider it in light of LILCO's response in order to provide more definitive guidance for the conduct of these proceedings.

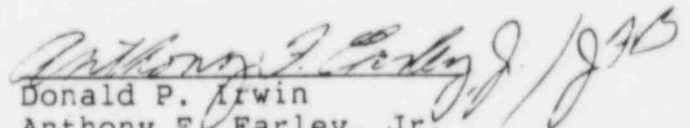
In particular, the Commission did not address the effect of the comprehensive security settlement agreement on security issues in the low power licensing proceeding. The order states that it was the Commission's understanding that the Licensing Board prevented the County from raising new security issues "because no contentions on security were currently before the Licensing Board in the operating license proceeding." Order at 1. But this was not the only ground for the denial relied upon in the Licensing Board's order. Order Granting LILCO's Motion in Limine at 2-3 (June 20, 1984). As LILCO argued in its response, the Final Security Settlement Agreement between LILCO and Suffolk County provided a separate and independent basis for excluding security issues. LILCO Response at 23-26. This agreement resolved all pending security matters and established a framework for resolving security disputes in the future.<sup>1/</sup> Since the Commission's order makes no mention of

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<sup>1/</sup> LILCO's response recognized that the settlement agreement does not prevent the NRC Staff from engaging security matters as part of its continuing review responsibility. By signing the agreement, however, the County waived the right to raise security issues in the future except as provided by the agreement. LILCO Response at 19.

the agreement, presumably it was not considered. We believe that if the Commission had fully considered LILCO's papers, it would have concluded that the settlement agreement was dispositive. Consequently, LILCO requests that the Commission reconsider its July 18 Memorandum and Order in light of LILCO's submittal of July 16.

Respectfully submitted,  
LONG ISLAND LIGHTING COMPANY

  
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DATED: July 19, 1984

LILCO, July 19, 1984

CERTIFICATE OF SERVICE

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

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ST. LOUIS  
BRANCH

I hereby certify that copies of LILCO'S MOTION FOR RECONSIDERATION OF THE COMMISSION'S JULY 18 MEMORANDUM AND ORDER dated July 19, 1984 were served this date upon the following by U.S. mail, first-class, postage prepaid, and in addition by hand (as indicated by one asterisk) or by telecopier (as indicated by two asterisks).

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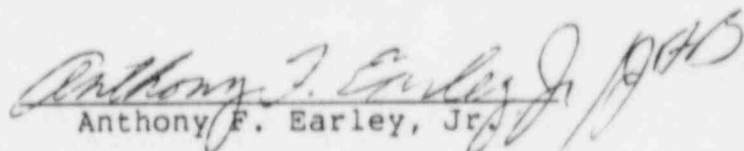
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