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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges *84 JUL 25 10:34
James A. Laurenson, Chairman
Dr. Jerry R. Kline
Mr. Frederick J. Shon

OFFICE OF SECRETARY
LICENSING & SAFETY
WASHINGTON, D.C.

SERVED JUL 24 1984

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

Docket No. 50-322-OL-3
(Emergency Planning Proceeding)
July 24, 1984

MEMORANDUM AND ORDER DETERMINING THAT A
SERIOUS SAFETY MATTER EXISTS

This Board was established on May 11, 1983 to preside over the proceeding on all emergency planning issues concerning the application for an operating license of the Shoreham Nuclear Power Station. The offsite emergency preparedness plan for Shoreham is significantly different from that of any other operating nuclear plant in the U.S. because the State and local governments have declined to participate in any response to a radiological emergency. Instead, the utility, Long Island Lighting Company (LILCO), has submitted an emergency response plan (Transition Plan) which relies primarily upon LILCO employees to perform the functions which are ordinarily performed by State and local employees at other nuclear power plants, e.g., traffic guides, bus drivers, route alert drivers, etc. The LILCO Transition Plan

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establishes an organization, the Local Emergency Response Organization (LERO), to perform these duties.

Counsel for LILCO and Suffolk County state that approximately one-half to two-thirds of the 1800 LERO workers are union employees of LILCO. Since July 10, 1984, all union employees of LILCO have been on strike. During the strike, all union members of LERO have either withdrawn or resigned from LERO. The evidence of record fails to establish that there is any other group of trained persons which is available to perform emergency duties if LILCO's union employees do not perform them while on strike. When the Board inquired of the parties concerning the effect of a strike on the operation of Shoreham if an operating license were issued, counsel for LILCO stated that although LILCO had enough non-union reactor operators to keep the reactor operating during a strike, LILCO management was "contemplating" a commitment to shut down the reactor during a strike.

The regulations at 10 C.F.R. § 50.47(a)(1) provide that "no operating license for a nuclear power reactor will be issued unless a finding is made by NRC that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency." Before an Atomic Safety and Licensing Board may examine and decide matters not put into controversy by the parties, 10 C.F.R. § 2.760a provides that the Board shall first determine that a serious safety, environmental, or common defense and security matter exists.

The Board finds that the issue of whether the current strike and the potential for future strikes by union members of LERO impair the ability of the applicant to implement a response to a radiological emergency is a serious question affecting the public health and safety. No party has expressly raised this issue by way of a contention admitted in the proceeding. Accordingly, pursuant to 10 C.F.R. § 2.760a, in light of our finding above, the Board admits the following issues sua sponte:

1. Whether LILCO's ability to implement its offsite emergency preparedness plan would be impaired by a strike involving the majority of its LERO workers.
2. Whether LILCO should be required to place the reactor in cold shutdown in the event of a strike by LERO workers.
3. Whether placing the reactor in cold shutdown during a strike by LERO workers, after the reactor has operated at full power, would give "reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency."

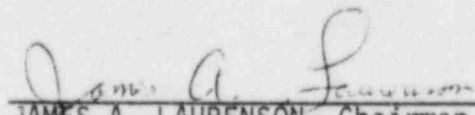
The Board does not expect that consideration of the issues hereby admitted will significantly delay its decision in this proceeding. It has completed 61 hearing days on emergency planning and anticipates that the record will close on August 31, 1984 after 12 more days of hearing. To the extent that the parties believe that limited discovery on these issues is necessary, they are directed to complete such discovery on or before August 14, 1984 and to present an oral report on the status of this matter on the same date. The Board further directs the parties

that no written testimony shall be filed on these issues. Rather, the parties shall be prepared to present oral testimony on this matter beginning on Tuesday, August 28, 1984.

In accordance with the Secretary's Memorandum of June 30, 1981, concerning sua sponte issues, copies of this Memorandum and Order are being forwarded to the Commission and to the General Counsel.

IT IS SO ORDERED.

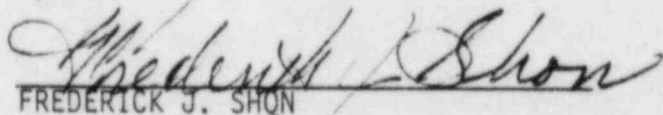
ATOMIC SAFETY AND
LICENSING BOARD



JAMES A. LAURENSEN, Chairman
Administrative Law Judge



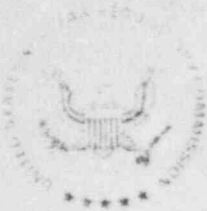
DR. JERRY R. KLINE



FREDERICK J. SHON

Bethesda, Maryland

cc: Chairman Nunzio J. Palladino
Commissioner Thomas M. Roberts
Commissioner James K. Asselstine
Commissioner Frederick M. Bernthal
Commissioner Lando W. Zech, Jr.
Hon. Herzel H. E. Plaine, General Counsel



UNITED STATES
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD PANEL
WASHINGTON, D. C. 20555

July 24, 1984

Honorable Nunzio J. Palladino
Nuclear Regulatory Commission
Washington, D. C. 20555

RE: Long Island Lighting Co.
(Shoreham Nuclear Power Station, Unit 1)
Docket No. 50-322-OL-3 (Emergency Planning)

Dear Chairman Palladino:

In a memorandum dated June 30, 1981, Samuel J. Chilk, Secretary, reported that on June 2, 1981 the Commission requested that henceforth when a Licensing Board raises an issue sua sponte in an operating license proceeding, it shall issue a separate order making the requisite findings, briefly state its reasons for raising the issue, and send copies to the Office of General Counsel and the Commission. On July 24, 1984, the Licensing Board presiding over the emergency planning proceeding at Shoreham raised such a sua sponte issue. We enclose herewith a copy of our Order containing our findings and reasons.

Very truly yours,

James A. Laurenson
JAMES A. LAURENSEN
Administrative Law Judge
Chairman

Enclosure



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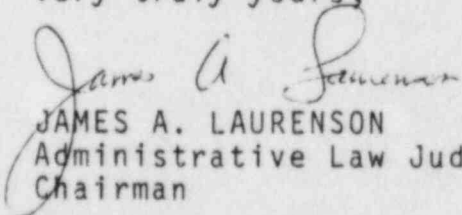
Honorable Thomas M. Roberts
Nuclear Regulatory Commission
Washington, D. C. 20555

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Administrative Law Judge
Chairman

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July 24, 1984

Honorable James K. Asselstine
Nuclear Regulatory Commission
Washington, D. C. 20555

RE: Long Island Lighting Co.
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Dear Commissioner Asselstine:

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Administrative Law Judge
Chairman

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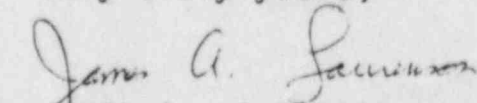
Honorable Frederick M. Bernthal
Nuclear Regulatory Commission
Washington, D. C. 20555

RE: Long Island Lighting Co.
(Shoreham Nuclear Power Station, Unit 1)
Docket No. 50-322-OL-3 (Emergency Planning)

Dear Commissioner Bernthal:

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Administrative Law Judge
Chairman

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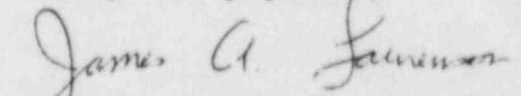
Honorable Lando W. Zech, Jr.
Nuclear Regulatory Commission
Washington, D. C. 20555

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Docket No. 50-322-OL-3 (Emergency Planning)

Dear Commissioner Zech:

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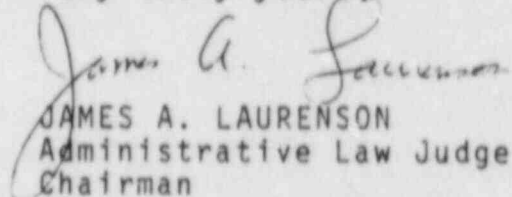
Honorable Herzel H. E. Plaine
Office of the General Counsel
Nuclear Regulatory Commission
Washington, D. C. 20555

RE: Long Island Lighting Co.
(Shoreham Nuclear Power Station, Unit 1)
Docket No. 50-322-OL-3 (Emergency Planning)

Dear Judge Plaine:

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