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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

DOCKETED  
USNRC

Before Administrative Judges  
James A. Laurenson, Chairman\*84  
Dr. Jerry R. Kline  
Mr. Frederick J. Shon

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

Docket No. 50-322-0L-3  
(Emergency Planning Proceeding)

July 27, 1984

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MEMORANDUM AND ORDER ESTABLISHING FORMAT AND SCHEDULE  
OF PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

On July 19, 1984, the Board discussed the subject of proposed findings with the parties. Tr. 13,796. We solicited and considered the views of all parties.

I. Purpose and Content of Proposed Findings

The essence of findings and conclusions is an explanation of the reasons for arriving at their determination. To that end, we expect that the findings and conclusions should be concise, fair and well reasoned. Proposed findings which are complete, accurate, balanced and supported by the evidentiary record have the best chance of being relied upon by the Board. Proposed findings which are extracted from one party's written testimony, with little or no discussion or evaluation of other testimony and the cross-examination, are unlikely to be complete

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and balanced. Indeed, we expect the parties to state and justify their reasons for a proposed finding that a particular fact should be adopted rather than a contrary fact proposed by another party.

Pursuant to 10 C.F.R. § 2.754, all parties are required to file proposed findings of fact and conclusions of law on issues in which they have participated or have an interest. Failure to do so shall be deemed a default on the particular issue, or part thereof.

At present the record consists of approximately 14,000 pages of transcript, plus several thousand pages of prepared written testimony, attachments and exhibits. It is anticipated that an additional 3,000 pages of transcript may be added before the hearing closes. In our discussion with counsel, we were advised that Intervenors anticipated that their "findings of fact will be certainly probably a thousand pages and may be more. . . ." Tr. 13,806. The Board finds that the prospect of being inundated with one thousand pages or more of findings from each of the major parties would unnecessarily delay its decision in the matter and deflect its attention from the important to the trivial. Accordingly, based upon the Board's experience in deciding cases of similar size and magnitude, we hereby impose upon the parties a 500 page limitation for findings of fact and conclusions of law. Such findings shall also comply with the formal requirements set forth at 10 C.F.R. § 2.708. The only material that need not be included in the 500 page limitation is a reproduction of the admitted contentions. Such copy of the contentions may be included as an appendix. However, to the extent that parts of the contentions are quoted in the findings, they shall be

subject to the 500 page limitation. All arguments of the parties must be included in the findings of fact and conclusions of law.

Since no testimony will be taken concerning Contentions 1-10, the so-called legal authority contentions, these 10 contentions shall not be included or addressed in the findings and conclusions. The Board will discuss this matter again with the parties and establish a separate briefing schedule for them.

#### II. Uniform Table of Contents

Pursuant to agreement of all parties on July 19, 1984, the Board hereby confirms its oral order (Tr. 13,816-7) that the parties are directed to prepare a uniform table of contents for proposed findings of fact and conclusions of law. All parties are required to submit their proposed findings in accord with that table of contents. The Board expects to receive a report on the status of this matter on August 14, 1984 when the hearing reconvenes.

#### III. Consolidated Findings of Fact by Intervenors

Suffolk County and New York have agreed to file a single set of proposed findings. Tr. 13,814. To date, no other intervenor has participated in this hearing. However, to the extent that any other intervenor wishes to have its views considered by the Board, it shall also consolidate its proposed findings in the single set of proposed findings filed by Suffolk County and New York.

#### IV. Citations to Prepared Written Testimony

Citations should give the last name of the witness, the page of the transcript immediately preceding the prepared testimony, and the page or

pages of the prepared testimony to which reference is made. If two witnesses sponsored the prepared testimony, both last names should be given. If three or more witnesses sponsored the testimony, use the last name of the witness whose name first appears on the cover sheet, followed by the words "et al." In a few cases two or more separate pieces of testimony involving the same witness or witnesses may be bound into the transcript at the same place. In that event the name of the witness should be followed by a short descriptive identification of the particular testimony being cited.

Examples:

Jones, ff. Tr. 1500, at 5.  
 Jones and Adams, ff. Tr. 1600, at 10-12.  
 Jones et al., ff. Tr. 1700, at 5, 10-12.  
 Jones (Training), ff. Tr. 1800, at 15.  
 Jones (Communications), ff. Tr. 1800, at 5.

V. Citations to Oral Testimony

Citations should give the last name of the witness or witnesses whose testimony is being cited, immediately following the transcript page or pages.

Examples:

Tr. 1500 (Jones).  
 Tr. 1500-05 (Jones, Adams).  
 Tr. 1500, 1559-61 (Jones).

VI. Citation to Exhibits and Preparation of Exhibits  
 and Witness Lists

Citations should designate the party who introduced the exhibit, the number of the exhibit, and the page or pages to which reference is made. Since all references are to emergency planning exhibits, the E.P.

designation is redundant and, e.g., LILCO E.P. Ex. 1 shall be designated LILCO Ex. 1.

Examples:

LILCO Ex. 1, at 5.  
S.C. Ex. 2 at 10-12.  
N.Y. Ex. 3, at 5, 10-12.

The parties are requested to file a joint list of exhibits by party and number, including the following: description of the exhibit; the transcript citation for the identification and, if applicable, admission into evidence of the exhibit; whether the exhibit has been bound in the transcript; and any other appropriate citations, e.g., rejected or withdrawn. The parties are also requested to file a joint list of witnesses for all parties in alphabetical order. The name of each witness shall be followed by the title of each piece of the witness' testimony admitted into evidence, including professional qualifications if separately bound in, and the transcript citation to the testimony. Finally, the parties are requested to file a sequence of testimony. The exhibit list, alphabetical witness list, and sequence of testimony shall be similar to those contained in Appendices C, D, and E of the Partial Initial Decision of the Brenner Board of September 21, 1983. The Board will discuss with the parties the dates for filing these lists when the hearing reconvenes on August 14, 1984.

VII. Format of Proposed Findings

The two tiered opinion and findings format of the Brenner Board's proposed findings and Partial Initial Decision in this case will not be followed. Instead, the main body of the proposed findings will combine

the substance of these two sections into one section, similar to the old format for NRC licensing board decisions.

The main body of the submittals will be proposed findings of fact. This shall consist of separate numbered paragraphs which concisely set forth the proposed findings of fact, with citations to the evidentiary record (be it transcript page, exhibit, or written testimony). Proposed findings should include the rationale as well as any controlling law. The proposed findings shall be in the form of a board decision, that is as if the Board were writing it.

The proposed findings of fact section may begin with a brief "Summary" subsection which summarizes the most salient points. It may be helpful to include references to subsections of the proposed findings which follow in support of each summary point.

#### VIII. Schedule for Filing Proposed Findings of Fact and Conclusions of Law

It is the Board's expectation that the hearing on this matter will conclude on or before August 31, 1984. The Board considered the arguments of the parties in connection with establishing a schedule different from the one set forth at 10 C.F.R. § 2.754. Considering the size of the record and the arguments of the parties, the Board hereby adopts the following schedule for the submission of proposed findings and conclusions concerning all issues which will have been heard on or before August 31, 1984.

1. LILCO's proposed findings of fact and conclusions of law shall be filed on or before October 5, 1984.

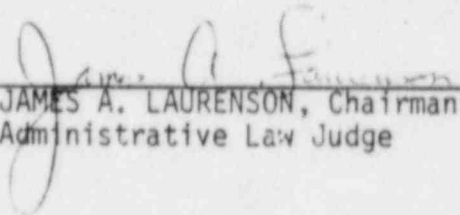
2. Intervenors' proposed findings of fact and conclusions of law shall be filed on or before October 19, 1984.

3. NRC Staff/FEMA proposed findings of fact and conclusions of law shall be filed on or before October 29, 1984.

4. LILCO's reply to proposed findings of fact and conclusions of law shall be filed on or before November 7, 1984.

IT IS SO ORDERED.

ATOMIC SAFETY AND  
LICENSING BOARD

  
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JAMES A. LAURSEN, Chairman  
Administrative Law Judge

Bethesda, Maryland