

12614



February 26, 1992  
**BY FAX**

The Hon. Ivan Selin, Chairman  
Commissioner Kenneth C. Rogers  
Commissioner Forrest W. Remick  
Commissioner James W. Curtiss  
Commissioner E. Gail de Planque  
United States Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, Maryland 20852

Long Island Lighting Company  
(Shoreham Nuclear Power Station)  
NRC Docket 50-322: - *OLA-3*  
Request for Transfer of Facility License

Dear Chairman Selin and Members of the Commission:

As counsel for the Long Island Lighting Company (LILCO) and the Long Island Power Authority (LIPA), we are in receipt of yet another filing by petitioners Shoreham-Wading River Central School District (SWRCSD) and Scientists and Engineers for Secure Energy, Inc. Replying on the merits to petitioners is impossible, as the next day simply brings more arguments never raised before. However, two important points should be made.

First, petitioners' argument about the tax phase-down simply misses (or tries desperately to confuse) the key point: that whatever the size of the property tax liability for Shoreham at the beginning of the ten-year ramp-down, the ramp is still ten years long and, if petitioners are ultimately found to be correct in their position that a new tax year begins on March 1, delay of transfer and closing beyond that date will have delayed the onset of reduced payments on that ramp by another year. Such a delay is their obvious, and publicly admitted, reason for their desperate, meritless thirteenth-hour paper barrages. Further, under state law and contrary to petitioners' new assertion, the phase-down will substantially eliminate tax liability associated with Shoreham, as the SWRCSD has conceded until yesterday.

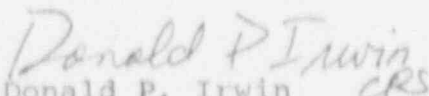
Second, the request for delay predicated on threatened initiation of suit in New York challenging LIPA's continued existence (a wholly frivolous argument for reasons previously shown) is simply a replay of petitioners' earlier effort to stall NRC action by reference to other New York litigation, rejected in

3503

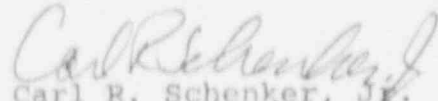
CLI-91-08. If petitioners wanted the Commission to defer to a ruling of state law, they should have initiated litigation in time to secure relief under New York law, not merely threatened this action in a last-minute bid for delay.

We again urge the Commission to approve license transfer, without a stay, so that the transfer may occur this month.

Sincerely yours,

  
Donald P. Irwin *CRS*  
Hunton & Williams  
951 East Byrd Street  
Richmond, Virginia 23219

Counsel for Long Island  
Lighting Company

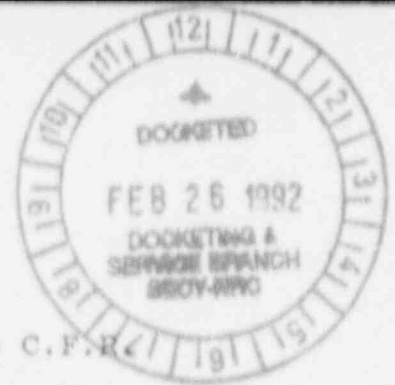
  
Carl R. Schenker, Jr.  
O'Melveny & Myers  
555 13th Street, N.W.  
Washington, D.C. 20004

Counsel for Long Island  
Power Authority

Attachment

cc: James P. McGranery, Jr., Esq. (by fax)  
Edwin J. Reis, Esq. (by fax)  
Charles E. Mullins, Esq. (by fax)  
Samuel J. Chilk  
Nicholas S. Reynolds, Esq.  
Stanley B. Klisberg, Esq.  
Samuel A. Cherniak, Esq.

CERTIFICATE OF SERVICE



Pursuant to the service requirements of 10 C.F.R. § 2.712 (1991), I hereby certify that on February 26, 1992, I served a copy of the joint letter of the Long Island Lighting Company and the Long Island Power Authority to Chairman Selin and the Members of the Commission via telecopier upon the following parties, except where otherwise indicated:

Commissioner Ivan Selin  
Chairman  
Nuclear Regulatory Commission  
One White Flint North Building  
11555 Rockville Pike  
Rockville, Maryland 20852

Commissioner Kenneth C. Rogers  
Nuclear Regulatory Commission  
One White Flint North Building  
11555 Rockville Pike  
Rockville, Maryland 20852

Commissioner James R. Curtiss  
Nuclear Regulatory Commission  
One White Flint North Building  
11555 Rockville Pike  
Rockville, Maryland 20852

Commissioner Forrest J. Remick  
Nuclear Regulatory Commission  
One White Flint North Building  
11555 Rockville Pike  
Rockville, Maryland 20852

Commissioner E. Gail de Planque  
Nuclear Regulatory Commission  
One White Flint North Building  
11555 Rockville Pike  
Rockville, Maryland 20852

Stephen A. Wakefield, Esq.  
General Counsel  
U.S. Department of Energy  
Forrestal Building  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585  
(First Class Mail)

The Honorable Samuel J. Chilk  
The Secretary of the Commission  
Nuclear Regulatory Commission  
One White Flint North Building  
11555 Rockville Pike  
Rockville, Maryland 20852

Administrative Judge  
Thomas S. Moore, Chairman  
Administrative Judge  
Nuclear Regulatory Commission  
Washington, D.C. 20555  
(First Class Mail)

Administrative Judge  
Jerry R. Kline  
Atomic Safety  
and Licensing Board  
Nuclear Regulatory Commission  
Washington, D.C. 20555  
(First Class Mail)

Administrative Judge  
George A. Ferguson  
5307 Al Jones Drive  
Columbia Beach, Maryland 20764  
(First Class Mail)

Edwin J. Reis, Esq.  
Deputy Assistant General Counsel  
for Reactor Licensing  
Nuclear Regulatory Commission  
One White Flint North Building  
11555 Rockville Pike  
Rockville, Maryland 20852

James P. McGranery, Jr., Esq.  
Dow, Lohnes & Albertson  
1255 23rd Street, N.W.  
Suite 500  
Washington, D.C. 20037

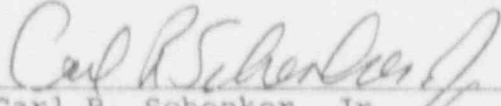
Regulatory Publications Branch  
Division of Freedom of  
Information & Publications  
Services  
Office of Administration  
Nuclear Regulatory Commission  
Washington, D.C. 20555  
(First Class Mail)

Donald P. Irwin, Esq.  
Counsel, Long Island  
Lighting Company  
Hunton & Williams  
707 East Main Street  
Richmond, Virginia 23212  
(Via Federal Express)

Gerald C. Goldstein, Esq.  
Office of the General Counsel  
Power Authority of  
State of New York  
1633 Broadway  
New York, New York 10019  
(Via Federal Express)

Samuel A. Cherniak, Esq.  
NYS Department of Law  
Bureau of Consumer Frauds  
and Protection  
120 Broadway  
New York, New York 10271  
(Via Federal Express)

Charles E. Mullins, Esq.  
Nuclear Regulatory Commission  
One White Flint North Building  
11555 Rockville Pike  
Rockville, Maryland 20852

  
Carl R. Schenker, Jr.

O'Melveny & Myers  
555 13th Street, N.W.  
Washington, D.C. 20004

Dated: February 26, 1992