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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'92 FEB 26 P4:14

COMMISSIONERS:

Ivan Selin, Chairman
Kenneth C. Rogers
James R. Curtiss
Forrest J. Remick
E. Gail de Planque

In the Matter of:	
LONG ISLAND LIGHTING COMPANY (Shoreham Nuclear Power Station, Unit 1)	Docket No. 50-322-OLA-3 (License Transfer)

CLI-92-04

MEMORANDUM AND ORDER

I. Introduction.

This matter is before the Commission on two different requests. The NRC Staff has proposed to issue an immediately effective amendment to the Shoreham operating license, and the Shoreham-Wading River Central School District ("School District") and the Scientists and Engineers for Secure Energy ("SE2") (collectively "petitioners") have asked the Commission to "stay" issuance of the proposed amendment. The proposed amendment would transfer ownership of Shoreham from the Long Island Lighting Company ("LILCO") to the Long Island Power Authority ("LIPA").

This matter presents a true anomaly: an unprecedented situation in which one utility is transferring the license -- amended to "possession-only" status -- for an almost totally unused nuclear reactor, which has been defueled, to another entity which intends to decommission and dismantle it. Shoreham is not a fully-operating nuclear reactor with a full radioactive inventory, and

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LIPA is not authorized to operate Shoreham, either by its creating charter under state law or by the license to be transferred. Thus, the action before us is not one in which a nuclear reactor is being transferred to a utility which intends to, and would be authorized to, operate the facility.

After due consideration, we have concluded that the proposed license transfer is not an "amendment" as that term is normally construed but -- as the petitioners themselves argue -- a "license transfer," which is a separate and distinct action under the Atomic Energy Act ("AEA"). However, the AEA does not require a pre-effectiveness or "prior" hearing for a license transfer. In addition, we have determined that a pre-effectiveness discretionary hearing is not appropriate under the facts of this case. Finally, we have denied petitioners' requests (1) to hold this action in abeyance pending resolution of the question of LIPA's existence under New York state law and (2) for an administrative or "housekeeping" stay pending judicial challenge. Therefore, when the Staff has conditioned the transfer as we direct herein to assure that the results of any post-effectiveness hearing will not be prejudiced, the Staff may approve the immediately effective transfer of the Shoreham license from LILCO to LIPA.

II. Factual Background.[1]

On June 28, 1990, LILCO and LIPA filed a joint application to transfer the Shoreham license from LILCO to LIPA. The NRC Staff noticed receipt of the application and issued a notice of opportunity for a hearing and a

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[1]We have discussed at length on numerous occasions the factual background surrounding LILCO's decision not to operate Shoreham. See e.g., CLI-90-08, 32 NRC 201; CLI-91-02, 33 NRC 61; CLI-91-08, 33 NRC 461. Therefore, we will not repeat that background here.

proposed finding of "no significant hazards consideration" ("NSHC"). See 56 Fed. Reg. 11781 (March 20, 1991). Petitioners responded with comments opposing the proposed NSHC finding and petitioned for leave to intervene and requested a hearing on the proposed amendment. Administrative proceedings are now ongoing before the NRC's Atomic Safety and Licensing Board ("Licensing Board"), which directed petitioners to file proposed contentions. These contentions are now being reviewed by the Licensing Board.

On December 17, 1991, petitioners filed a pleading with the Commission asking that it "stay" issuance of the proposed amendment pending completion of the administrative proceedings before the Licensing Board. On December 19, 1991, petitioners filed an additional pleading "suggesting" that LIPA would cease to exist under the "sunset" provisions of New York law. By order of December 23, 1991, we directed the Staff, LILCO, and LIPA to respond to both pleadings, and they have filed responses.[2]

The Staff has also filed a paper recommending that it be allowed to issue the proposed amendment on an "immediately effective" basis under the Commission's Sholly provisions, a copy of which has been served on petitioners. See SECY-92-041 (Feb. 6, 1992). Petitioners have responded to the Staff's paper and LIPA has filed a reply to petitioners' comments. We accept both papers for filing. We have also accepted a letter submitted by petitioners dated January 22, 1992, two letters submitted jointly by LILCO and LIPA on January 31, 1992, and February 14, 1992, a pleading by petitioners dated February 24, 1992, and another pleading by petitioners on February 26, 1992, less than one hour before issuance of this Order.

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[2]LIPA has also submitted a pleading containing supplemental authority on this question which we have accepted for filing.

III. Arguments of Parties.

A. Petitioners' Arguments.

Petitioners raise several arguments in support of their stay request. First, petitioners argue that the Staff cannot apply the "Sholly" or "immediately effective" procedures to the proposed license transfer amendment. Petitioners argue that Congress' authorization to the Commission to issue immediately effective amendments, 42 U.S.C. §2239(a)(2)(A), applies only to amendments to "operating" licenses and that the current Shoreham license is not an operating license because the Commission has amended it to a "possession only" license ("POL"). See Petitioners' Motion ("Pet. Mtn.") at 3-4. In addition, petitioners argue that the Atomic Energy Act distinguishes between amendments to operating licenses and requests to transfer control of a license. See 42 U.S.C. §2239(a)(1). Therefore, argue petitioners, because the Sholly provisions only apply to operating license amendments and because the transfer of control of a plant is separate from a license amendment, the staff cannot issue the proposed amendment on an immediately effective basis. Pet. Mtn. at 4-6.

Second, petitioners present two alternative arguments based upon LIPA's financial condition. Petitioners allege that LIPA is bankrupt and does not have the necessary management competency to perform the decommissioning of Shoreham. Thus, petitioners argue that LIPA is neither financially nor technically qualified to hold the Shoreham license. Pet. Mtn at 6-7. In the alternative, petitioners filed a separate pleading entitled "Suggestion of Mootness" in which they allege that LIPA will cease to exist under the "sunset" provisions of New York State law if they have no outstanding

liabilities. While petitioners concede that LIPA has outstanding liabilities, they argue that the statute could be interpreted to require "no net liabilities." See Suggestion of Mootness at 3-7.

Third, petitioners point out that the Staff's proposal to issue the transfer on an immediately effective basis is based upon the fact that only a POL is being transferred and that the issuance of the POL is now before a federal Court of Appeals. Petitioners argue that if that court reverses the issuance of that amendment, the POL would revert to a full-power license, leaving LIPA in possession of an operating license for a plant which it would not be qualified to operate and thereby in a situation outside the Staff's proposed NSHC determination. Pet. Mtn. at 7-8. Finally, petitioners again argue that the proposed license transfer is a part of the proposed decommissioning of Shoreham and that the Commission cannot approve the proposed transfer without an environmental review of the decommissioning of Shoreham, including the alternative of "resumed operation."

B. LIPA's Response.[3]

In its response, LIPA argues as a threshold matter that petitioners' filing is both untimely and procedurally defective. Briefly, LIPA argues that the Stay Motion does not comply with the requirements for a stay motion under 10 C.F.R. §2.788 of the Commission's regulations and, in any event, is an unauthorized comment on the proposed NSHC finding. LIPA also argues that the motion constitutes an unauthorized supplement to petitioners' original petition because it raises new information and allegations not previously raised. See LIPA Response ("LIPA Resp.") at 2-3. LIPA also argues that

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[3]LILCO has not filed a response on its own; instead, it has filed a short pleading adopting LIPA's filing.

petitioners are motivated by philosophical and monetary concerns, not public health and safet oncerns, implying that the Commission should reject their filings for this reason alone. See LIPA Resp. at 3-4.

Turning to substantive arguments, LIPA argues that it has the requisite "financial" and "managerial" integrity to become an NRC licensee, that LIPA is not bankrupt, and that, in any event, LILCO will supply all LIPA's Shoreham-related expenses. See LIPA Resp. at 5-6, citing LIPA's Response to Petitioners' Original Petition before the Licensing Board. In addition, LIPA argues that under Commission precedent the mere pendency of a challenge to the POL cannot bar transfer of the POL to LIPA, and that even if the Court of Appeals were to vacate the POL, LIPA is statutorily barred under New York state law from operating Shoreham. See LIPA Resp. at 7-8.

Next, LIPA argues that under prior NRC Staff practice, transfer of control of a facility can be accomplished by an immediately effective license amendment following a NSHC finding. See LIPA Resp. at 9, citing LIPA, LILCO, and NRC Staff Responses to Petitioners' Original Petition before the Licensing Board. Essentially, LIPA, LILCO, and the Staff ("Respondents") argued before the Licensing Board that in the past the Staff has issued proposed NSHC findings and immediately effective amendments to effectuate changes in ownership shares. Respondents argued that this practice established a valid Commission precedent which should be followed in this case, although apparently there has never been a challenge to this pr tice and the Staff itself conceded "the facial validity of Petitioners['] [sic] arguments." See NRC Staff Response to Original Petition (May 17, 1991) at 38. Furthermore, LIPA argues that the Sholly procedures apply to any license issued under 10 C.F.R. §50.52 because NRC regulations do not specifically refer to a POL;

instead, the term "POL" is simply an NRC term referring to a specifically-amended Part-50 license. See LIPA Resp. at 9-12.

Finally, LIPA argues that petitioners have misinterpreted the applicable provisions of the New York "sunset law" which they allege may cause LIPA to cease to exist. First, LIPA argues that the law was intended to terminate agencies which were inactive, not ongoing agencies which were actively performing their duties. See LIPA Resp. at 11-12, 13-16. Second, LIPA argues that its termination would conflict with provisions of the LIPA Act and that the LIPA Act would take priority. See LIPA Resp. at 12, 16-19.

C. NRC Staff Response.

First, the NRC Staff argues that no "special circumstances" exist which would justify the Commission's delaying issuance of the license transfer. Initially, the Staff argues that Commission precedent holds that pending judicial challenges do not warrant staying Commission proceedings. See Staff Response ("Staff Resp.") at 3-4, citing, e.g., Consumers Power Co. (Midland Plant, Units 1 and 2), 4 NRC 474, 475 n.1 (1976). Additionally, the Staff argues that the proposed amendment will only transfer the license as already amended, i.e., a POL. Furthermore, even if issuance of the POL is vacated by the Court of Appeals, the Staff argues that Shoreham is currently defueled, LIPA is contractually prohibited from operating the reactor, and the reactor cannot be restarted without NRC approval. Accordingly, the Staff argues that any possible court decision vacating the POL would not affect public health and safety and should not delay the proposed transfer. See Staff Resp. at 4-5. Moreover, the Staff argues that petitioners have failed to demonstrate that LIPA is not qualified to hold the Shoreham license. See Staff Resp. at 5-6.

Second, the Staff argues that because the Atomic Energy Act does not specifically preclude use of a license amendment to transfer a license, it should be allowed to use the immediately effective provisions of 10 C.F.R. §50.91 to accomplish this task. See Staff Resp. at 6-7. The Staff then lists several other amendments that it argues are similar to this proposed amendment and have been issued under the Commission's Sholly provisions in recent years and it argues that the Commission has acknowledged this practice. See Staff Resp. at 7-8. Third, the Staff argues that not only have petitioners failed to address the traditional stay criteria contained in 10 C.F.R. §2.788, but that they cannot satisfy them. See Staff Resp. at 8-12. Finally, the Staff supports LIPA's arguments that petitioners have misinterpreted the "sunset" provisions of New York law. See Staff Resp. at 12-14.

III. Analysis.

A. The Atomic Energy Act Does Not Require A Hearing Before Transfer Of A License.

Petitioners argue that the transfer of a license is a different action from a license amendment under the Atomic Energy Act ("AEA"). Section 184 of the AEA provides that

> [n]o license granted hereunder ... shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of this Act, and shall give its consent in writing.

42 U.S.C. 2234. Section 189a(1) of the AEA provides that

> [i]n any proceeding under this Act, for the granting, suspending, revoking, or amending of any license or

> construction permit, or any application to transfer control, ... the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding and shall admit any such person as a party to such proceeding.

42 U.S.C. 2239(a)(1). However, this language does not indicate whether this hearing is to come before the action taken or after the action taken (i.e., a pre-effectiveness or post-effectiveness hearing).

The requirements for a pre-effectiveness or "prior" hearing are found in the second and third sentences of section 189a(1). There, the AEA requires the Commission to hold a pre-effectiveness or "prior" hearing on certain applications for a construction permit (second sentence),[4] and to offer a pre-effectiveness hearing on certain applications for an amendment to a construction permit, an operating license, or an amendment to an operating license (third and fourth sentences).[5]

Where applications for actions which do not fall into the four categories described above are involved, the Commission has construed section 189a(1) as not requiring the offer of a pre-effectiveness or "prior" hearing. For example, the Commission generally does not offer pre-effectiveness notice and hearings in actions regarding materials licenses. See 10 C.F.R. Part 2, Subpart L. This interpretation is long-standing, and supported by the legislative history of the 1957 amendments to the AEA which added the second sentence to section 189. See Joint Committee on Atomic Energy Staff Report "A Study of AEC Procedures and Organization in the Licensing of Reactor Facilities," at 8 (1957). In this case, petitioners argue that the proposed action constitutes a "transfer of license," not an amendment to an

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[4]Added by Pub.L. 85-256, 71 Stat. 576, §7 (1957).

[5]Added by Pub.L. 87-615, 76 Stat. 409, §2 (1962).

operating reactor license. We agree. However, this agreement does not achieve petitioners' desired result of a hearing prior to the transfer. If this action is a "transfer" rather than an "amendment" to an operating license, it is not one of the four actions for which the Commission is required to offer a pre-effectiveness hearing. Instead, a "transfur of control" invokes only the hearing rights afforded by the first sentence of section 189a(1). Thus, by their own arguments, petitioners have effectively taken themselves outside the scope of the AEA's requirements for a pre-effectiveness hearing. Quite simply, the AEA does not require the offer of a prior hearing on an application to transfer control of a license before the transfer is made effective.[6]

B. In These Circumstances, A Discretionary Hearing Is Not Required.

While we have concluded above that the Atomic Energy Act does not require a pre-effectiveness hearing before granting a license transfer, we must also consider whether we should direct that a hearing be held as a matter of discretion. Under section 161c of the Atomic Energy Act,

> the Commission is authorized to ... hold such hearings as the Commission may deem necessary and proper to assist it in exercising any authority provided in this Act ....

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[6]In view of this finding, we need not reach the arguments presented by the Staff and LILCO/LIPA that the license may be transferred by an immediately effective license amendment which presents no significant hazards considerations. However, once the transfer is finalized through the post-effectiveness hearing process, there remains the need -- for administrative purposes -- to have the license changed to reflect the name of the new licensee. Such an amendment, which presumes an effective transfer, presents no safety questions and clearly involves no significant hazards considerations.

42 U.S.C. §2201(c). We would direct the holding of a pre-effectiveness hearing regarding a proposed transfer if one were necessary or desirable because potentially significant public health and safety issues were raised.

However, such a case is not presented here. First, Shoreham was operated only during low-power testing; as a result, the radioactive inventory in the Shoreham reactor and spent fuel pool is equal to that generated by approximately two days of full-power operation. Thus, the public health and safety risks presented here are much reduced compared to those of a plant that has been fully-operational. Furthermore, LILCO appears to have taken actions which may have effectively foreclosed operation of Shoreham without substantial re-construction activities by any future owner.

Second, LIPA is statutorily prevented by New York state law from operating Shoreham as a nuclear plant. Third, the license which is being transferred is subject to two conditions: (1) the license has been amended to allow "possession only" of the facility; and (2) the license is subject to a confirmatory order preventing LILCO from placing fuel into the Shoreham reactor core without NRC permission. By accepting the transfer of the Shoreham license, LIPA accepts it subject to those conditions. Thus, even if LIPA wished to operate the facility, as it cannot do under New York law, and even if it could physically operate the facility, which it apparently cannot do at this time because of actions taken by LILCO, it cannot legally operate the facility for two separate reasons without NRC prior approval, which would only be given after NRC review and, in the case of the POL, a prior opportunity for interested members of the public to participate.

Fourth, and perhaps more important for petitioners' apparent goal of preventing the dismantling of Shoreham, LIPA cannot take any actions that

would foreclose any decommissioning options for Shoreham until the NRC approves a decommissioning plan. Under our regulations, LILCO cannot at this time take any actions which would foreclose a decommissioning alternative. Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), CLI-91-02, 33 NRC 61, 73 n.5 (1991). As we noted above, LIPA succeeds only to the license that LILCO holds. Clearly, LIPA cannot take any action under the transferred license which LILCO could not have taken. Thus, LIPA may not take any action which would foreclose a decommissioning alternative until approval of a decommissioning plan. Consideration of a proposed decommissioning plan has been noticed in the Federal Register, see 56 Fed. Reg. 66459 (Dec. 23, 1991), and petitioners will have an opportunity to challenge the proposed plan if they can demonstrate that they meet the normal prerequisites for intervention under our Rules of Practice.

Fifth, we have reviewed the Staff's safety evaluation and we are convinced that the transfer presents no public health and safety issues which need to be addressed in a hearing prior to the administrative proceeding. As we noted above, the spent fuel is stored in the spent fuel pool and cannot be returned to the reactor without NRC permission. Moreover, the total radioactive contamination is equivalent to that generated by two days of full-power operation. Finally, the Staff points out that in the interim LIPA has retained a number of LILCO personnel and hired a number of qualified personnel from other utilities. Given the limited scope of activities that LIPA can undertake until a ruling on the decommissioning plan, its inability to operate the plant from both a legal and practical standpoint, the reduced hazard from a plant which was operated only at low power for a short time, and the evident availability of qualified personnel to maintain the plant in the

interim, we find that the transfer does not raise any public health and safety issues which warrant a prior hearing.

In summary, we find that the transfer presents no public health and safety issues requiring that we hold a prior hearing as a matter of discretion.

C. Issuance of the Transfer.

We have found that the AEA does not require a prior hearing for a transfer of control. We have also found that a discretionary hearing is not required in this case. However, there are three issues which we believe need to be addressed before issuance of the license transfer, two of which require Staff action. First, petitioners correctly point out that the license transferred is the modified "possession only" license ("POL") and that the Staff has "conditioned" the transfer on the license being a POL. See 56 Fed. Reg. 11781. The action granting the POL amendment is now before the Court of Appeals and petitioners argue that a decision by that court vacating the POL would undermine the basis for the license transfer. However, even if the Court of Appeals reversed the POL, the public health and safety is still protected by the Confirmatory Order preventing the licensee from loading fuel into the Shoreham reactor. Thus, we do not find that this possibility prevents the transfer.

Second, petitioners argue that LIPA may soon cease to exist under New York "sunset" law. We do not find petitioners' arguments convincing at this preliminary stage, but this is a question of state law which presumably must be decided by New York state courts. Third, petitioners have challenged the license transfer in what we now hold will be a post-effectiveness hearing. Obviously, that proceeding holds the potential for a finding that LIPA does

not qualify as a licensee. Therefore, for these two reasons, before approving the license transfer, the Staff should condition the transfer (1) on the license's reverting to LILCO if LIPA ceases to exist or is otherwise found to be unqualified to hold the license and (2) on LILCO's providing certification to the NRC Staff that it will retain and maintain adequate capability and qualifications to take over the license promptly in the event that either of these situations occurs. This action is without prejudice to petitioners' rights in the post-effectiveness proceeding before the Licensing Board.

IV. Request to Hold In Abeyance and For An Administrative Stay.

Petitioners request that we hold this action in abeyance pending resolution of the question of LIPA's existence under New York state law. However, at this time, they have not actually filed an action seeking such a resolution.[7] Moreover, as we noted above, petitioners have not presented a

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[7]On February 25, 1992, after this order was substantially complete, the NRC's Office of the Secretary informed counsel for the parties to the Shoreham proceedings, including counsel for petitioners, that the Commission would affirm an order relating to this matter. In response, counsel for petitioners advised the Secretary that he intended to file an additional pleading that evening with the Commission. At approximately 5:30 pm, the Secretary received petitioners' "Notice of LILCO/LIPA Exaggeration and Commencement of State Court Action."

This pleading contests several assertions regarding statements by LILCO/LIPA in letters of January 31, 1992, and February 14, 1992, supra, and announces petitioners' intent to seek a declaration in New York courts that LIPA has ceased to exist under New York "sunset" law. As a result of this announced intention to file a state court action, petitioners renew their request that the NRC not transfer the license to LIPA. LIPA and LILCO have filed a joint response in opposition.

We inquired at an earlier date to see if petitioners would seek such an action in our belief that such an action was appropriate on petitioners' part. See Letter from J.P. McGranery (January 22, 1992), supra. Moreover, as we noted above, we have conditioned the transfer upon (1) the license reverting to LILCO if the New York court dissolves LIPA and (2) LILCO certifying that it will retain and maintain sufficient capacity to take back the license in that eventuality. Supra. Accordingly, petitioners' pleading in response to the Commission's decision to act on this issue is not sufficient to stay our

persuasive argument on this issue at this preliminary stage. Our position might well be different had petitioners filed such an action immediately in a New York state court and were there in turn some indication from the state courts that there could be some merit in petitioners' argument.[8] Accordingly, we deny petitioners' request to hold the transfer in abeyance pending action by the New York state courts. Petitioners also request that if we authorize the issuance of the transfer, we stay its effectiveness pending their expected challenge in the Court of Appeals. The Court of Appeals for the D.C. Circuit has observed "that tribunals may properly stay their own orders when they have ruled on admittedly difficult legal questions and when the equities of the case suggest that the status quo should be maintained." Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc., 559 F.2d 841, 844 (D.C. Cir. 1977). We do not perceive a difficult legal question here, particularly in view of the Commission's prior interpretation and the deference customarily accorded an agency's interpretation of its organic statute.

Second, petitioners have failed to convince us that they will suffer any irreparable injury should we deny the stay. After all, as we noted above this action simply transfers to LIPA that which is held by LILCO. LIPA cannot do anything under this license that LILCO could not do. LIPA cannot operate the plant, it cannot load fuel into the plant, and it cannot foreclose a decommissioning option until the Staff approves a decommissioning plan.

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decision.

[8]In addition, as a result of such a state court proceeding, we could have reviewed pleadings from parties more familiar with New York law than we are.

Both the School District and LILCO may have serious economic interests at risk. Quite simply, if LILCO holds Shoreham on March 1, 1992, it appears that LILCO may be required to make a tax payment to the School District, which LILCO naturally seeks to avoid. Presumably, the School District seeks to receive that payment, which it would lose if this order becomes immediately effective.

The courts have consistently held that "mere economic loss does not constitute irreparable injury." State of Ohio ex rel Celebrezze v. NRC, 812 F.2d 288, 291 (6th Cir. 1987). See, e.g., Sampson v. Murray, 415 U.S. 61, 90 (1974); Virginia Petroleum Jobbers Ass'n v. FPC, 259 F.2d 921, 925 (D.C. Cir. 1958); Johnpoll v. Thornburgh, 898 F.2d 849, 851 (2d Cir. 1990). In this case, we are not in a position to judge which economic interest is more compelling or whether the parties are able to seek redress and recovery of any funds expended or not expended in future litigation. Moreover, it is our intent to avoid making any decision based solely on economic reasons. Thus, we find that the balance of equities in this matter does not tilt in favor of the petitioners.

As for the public interest, as we noted above, factors associated with the tax payment do not, in our view, carry the day one way or the other based upon the record before us. Other public interest factors are subsumed in our discussion of a discretionary hearing and also do not support issuance of a stay. Thus, we deny petitioners' request for a stay pending appeal.[9]

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[9]We have issued administrative or "housekeeping" stays in previous proceedings, such as the issuance of the Shoreham POL. However, in that instance, both LILCO and LIPA did not contest such a stay. Here, they do. As we noted above, there are no public health and safety issue present in this case. In addition, LILCO submitted this application over one and a half years ago and it has been pending without resolution since that time. Finally, as we noted above, LILCO may face a potential tax payment if this order is not

V. Conclusion.

Based upon the foregoing, we find that the Atomic Energy Act does not require a pre-effectiveness hearing before approval of a license transfer and that, under the circumstances of this case, a discretionary pre-effectiveness hearing is not required. We deny petitioners' request to hold the transfer in abeyance pending a determination by New York state courts that LIPA will not cease to exist and we deny petitioners' request for an administrative stay. The Staff may issue an order approving the license transfer on an immediately effective basis when it has conditioned the transfer as we have specified above.

Commissioner de Planque did not participate in this Order.

It is so ORDERED.

For the Commission

SAMUEL J. CHILK
Secretary of the Commission

Dated at Rockville, Maryland
this 26th day of February, 1992.

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effective before March 1, 1992. After considering all these issues, we find that the balance of equities does not weigh in favor of a "housekeeping" stay of this matter.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

LONG ISLAND LIGHTING COMPANY

(Shoreham Nuclear Power Station, Unit 1)

Docket No.(s) 50-322-OLA-3

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing COMMISSION M&O (CLI-92-04) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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Docket No.(s)50-322-OLA-3
COMMISSION M&O (CLI-92-04)

Dated at Rockville, Md. this
26 day of February 1992

Emile J. Julian
Office of the Secretary of the Commission

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

LONG ISLAND LIGHTING COMPANY

(Shoreham Nuclear Power Station, Unit 1)

Docket No.(s) 50-322-OLA-2

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing COMMISSION M&O (CLI-92-04) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

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Docket No.(s)50-322-OLA-2
COMMISSION M&O (CLI-92-04)

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Dated at Rockville, Md. this
26 day of February 1992

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