

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD *DOCKETED
USNRC*

Before Administrative Judges
Marshall E. Miller, Chairman
Glenn O. Bright
Elizabeth B. Johnson

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*OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH*

In the Matter of

LONG ISLAND LIGHTING COMPANY

(Shoreham Nuclear Generating Plant,
Unit 1)

Docket No. 50-322-OL-4
(Low Power)

August 13, 1984

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ORDER

By a letter dated August 10, 1984, one of the attorneys (Alan Roy Dynner, Esq.) representing the Intervenor Suffolk County requested postponement of a conference with counsel regarding security issues, scheduled for 9:30 a.m., Thursday, August 16. LILCO objected to this proposed schedule change on August 13. Good cause not having been shown, this request is denied.

On August 7, 1984, at the conclusion of evidentiary hearings held in Hauppauge, New York from July 30 to August 7, the instant conference with counsel was discussed in open court with all attorneys. Both closing arguments in the exemption request hearing and the procedures to be adopted in the pending security issue matter were specially set for

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August 16 (Tr. 2961, 2966-67). Suffolk County's letter/motion contains several misconceptions which are dealt with below.

This exemption request has been scheduled on an expedited basis consistent with the guidance provided by the Commission in its Order dated May 16, 1984 (CLI-84-8 at pages 3-4). That Order further provided that the Licensing Board "shall conduct the proceeding on the modified application in accordance with the Commission's rules" (Id.).

Accordingly, we cannot agree with Suffolk County's statement in its counsel's letter that "These matters, of course, are usually handled informally. However, if the Board wishes, this request may be deemed a motion for the few days postponement requested." Counsel should know that continuances of specially set arguments in this contested proceeding are not to be "handled informally." Opposing counsel are entitled to respond to timely motions properly filed under 10 CFR §2.730. This Board has never permitted any counsel to short-circuit the Commission's Rules by writing untimely letters and then casually suggesting that they "may be deemed a motion."

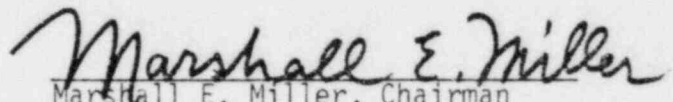
Further, we cannot agree with counsel's statement that short schedule changes "are generally granted by administrative bodies and courts as a matter of course...." Continuances or other delays are not granted as a matter of course where time is important and expedited schedules have been specifically requested and adopted.

At the recent seven (7) days of evidentiary hearings, Suffolk was actively represented in direct and cross-examination by four different

lawyers. On at least one occasion the bifurcated cross-examination of one witness unduly extended the time of such interrogation. The present continuance request is made to accommodate the availability of a fifth lawyer, even though asserted lead counsel (Karla J. Letsche, Esq.) was present when arguments were scheduled for August 16. The scheduling of such hearings involves time and travel commitments by members of the Board and others and are not to be set aside to suit the convenience of some unlimited platooning of lawyers. The requested continuance is denied.

It is so ORDERED.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD


Marshall E. Miller, Chairman
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland
this 13th day of August, 1984.