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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

DOCKETED
USNRC

Before Administrative Judges:

'84 AGO 16 P12:13

Lawrence Brenner, Chairman
Dr. George A. Ferguson
Dr. Peter A. Morris

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

SERVED AUG 16 1984

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

Docket No. 50-322-OL

August 15, 1984

MEMORANDUM AND ORDER REGARDING "LILCO'S MOTION FOR LEAVE
TO MAKE RESTRICTED SERVICE OF CERTAIN DOCUMENTS, FOR A
PROTECTIVE ORDER AND FOR IN CAMERA CROSS-EXAMINATION
CONCERNING THE DOCUMENTS"

LILCO filed the above-captioned motion on August 14, 1984, along with its testimony and exhibits. The motion is unfortunately unclear and insufficient in both the procedural and substantive matters it addresses.

The motion seeks proprietary protection for certain drawings of diesel engine components which are alleged to be proprietary to the diesel vendor, Transamerica Delaval Inc. ("TDI"). It indicates that at least one of the other parties, Suffolk County, has already entered into a protective agreement. Motion, at 2 n.2. Yet LILCO's cover letter states that pending the Board's ruling, the drawings in question have

not been served on the parties. Procedurally, there is no need for delay, if indeed the drawings have not been served. Interim protective agreements should be executed with the participating parties so that the drawings can be received by the parties, pending the Board's ruling. Protective agreements have been used before in this case and may be consulted for guidance on suitable format, as adapted for interim arrangements. By this order, we direct that any such protective agreements shall be adhered to in the interim, without prejudice to a party's position on whether LILCO's motion should be granted by the Board. ^{*}/

Substantively, LILCO's motion does not even address, let alone satisfy, the requirements for the proprietary treatment it seeks on behalf of TDI, as set out in 10 C.F.R. § 2.790. Among other things, it is required that an affidavit set forth with specificity the bases for need for confidential treatment (Section 2.790(b)), including consideration of the factors in Sections 2.790(b)(2) and (4). This Board will require stringent adherence to satisfaction of the burden of establishing the right and need for confidential treatment by the

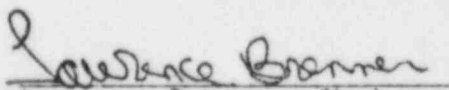
^{*}/LILCO's cover letter and motion implies that the Board has received the drawings, noted by drawing numbers in the Motion (at 2 n.1). The Board has not yet examined all of the voluminous exhibits filed late yesterday, but it appears they are organized by exhibit number. Therefore, LILCO shall supply the Board with the exhibit number for each drawing it seeks to protect.

movant, particularly when security-type issues are not involved, before agreeing to hold part of the public hearing in camera, and the record thereafter under seal.

For the reasons stated, LILCO's instant motion is denied, without prejudice to LILCO filing a timely new motion. If LILCO plans to file a new motion, interim protective agreements should be signed to permit prompt service of the drawings, pending further order of the Board. It would also be efficient if negotiations among the parties, and their positions on LILCO's request, could be noted in any new motion which LILCO chooses to file. An agreed-upon form of order, in the event the Board should grant any new motion, should also be included by LILCO as part of any further motion for confidential treatment.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD


Lawrence Brenner, Chairman
ADMINISTRATIVE JUDGE

Bethesda, Maryland
August 15, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Lawrence Brenner, Chairman
Dr. George A. Ferguson
Dr. Peter A. Morris

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

Docket No. 50-322-0L

August 15, 1984

COURTESY NOTIFICATION

As circumstances warrant from time to time, the Board will mail a copy of its memoranda and orders directly to each party, petitioner or other interested participant. This is intended solely as a courtesy and convenience to those served to provide extra time. Official service will be separate from the courtesy notification and will continue to be made by the Office of the Secretary of the Commission. Unless otherwise stated, time periods will be computed from the official service.

I hereby certify that I have today mailed copies of the Board's "Memorandum and Order Regarding 'LILCO's Motion for Leave to Make Restricted Service of Certain Documents, for a Protective Order and for In Camera Cross-Examination Concerning the Documents'" to the persons designated on the attached Courtesy Notification List.

Valarie M. Lane

Valarie M. Lane
Secretary to Judge Lawrence Brenner
Atomic Safety and Licensing Board

Bethesda, Maryland
August 15, 1984

Attachment

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