

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of

LONG ISLAND LIGHTING COMPANY

(Shoreham Nuclear Power Station,
Unit 1)

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

NRC STAFF RESPONSE TO LILCO'S MOTION FOR DIRECTED
CERTIFICATION OF THE LICENSING BOARD'S ORDER RULING ON
LILCO'S MOTIONS FOR SUMMARY DISPOSITION OF PHASES I AND II

Robert G. Perlis
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August 17, 1984

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I. INTRODUCTION

On July 23, 1984, the Shoreham Low Power Licensing Board issued an Order granting in part and denying in part LILCO's Motions for Summary Disposition of Phases I and II of LILCO's Supplemental Motion for a Low Power Operating License. On August 2nd, LILCO moved for directed certification of the Board's July 23rd Order. For the reasons given below, the Staff believes further Commission guidance would be helpful and therefore supports that part of LILCO's Motion which requests early consideration by the Commission.

II. DISCUSSION

A. Background

A brief review of the history of this proceeding is needed to put LILCO's present motion in its proper context. LILCO filed its Supplemental Motion for a Low Power Operating License on March 20, 1984. That

Supplemental Motion requested a low power operating license for the Shoreham facility pursuant to 10 C.F.R. § 50.57(c) in advance of the conclusion of litigation addressing the adequacy of Shoreham's onsite emergency diesel generators. The requested license would cover four phases of low power operation: fuel loading and precriticality testing (Phase I); cold criticality testing at essentially ambient temperature and pressure (Phase II); reactor heatup and pressurization with the power level reaching 1% of rated power (Phase III); and testing at power levels up to 5% of rated power (Phase IV). To provide emergency power for low power operation, LILCO proposed to rely on two supplemental power sources: four mobile diesel generators and one gas turbine.

After hearing oral argument on May 7, 1984, the Commission issued an Order (CLI-84-8) on May 16th holding that General Design Criterion 17 of Appendix A to 10 C.F.R. Part 50 was applicable to low power operation and that, in the circumstances of this proceeding, LILCO would either have to demonstrate compliance with GDC 17 or receive an exemption pursuant to 10 C.F.R. § 50.12(a) before a low power license could issue.^{1/} On May 22nd, LILCO filed its Application for Exemption; hearings were held on that application in late July and early August. Concurrent with the filing of its Application for Exemption, LILCO filed Motions for Summary Disposition of Phases I and II of its March 20th Supplemental Motion for a Low Power Operating License. As basis for summary disposition, LILCO argued that no AC power is needed during Phases I and II to ensure that

^{1/} GDC 17 requires that nuclear plants have both an onsite and an offsite electric power system.

the core remain adequately cooled and that even if LILCO's onsite emergency diesel generators (the subject of remaining litigation before the Licensing Board) were assumed to fail to operate, the requirements of GDC 17 would be met during Phases I and II.

In its June 13, 1984 Response to LILCO's Motions for Summary Disposition, the Staff opposed in part and supported in part summary disposition of Phases I and II. The Staff agreed with LILCO's technical argument that the need for emergency AC power during Phases I and II is very slight.^{2/} The Staff therefore supported disposition of the technical issues associated with Phases I and II. In terms of compliance with GDC 17, LILCO's argument boiled down to the assertion that GDC 17 does not apply to Phases I and II. The Staff had originally taken the position that GDC 17 should be applied with flexibility and dependent upon the nature of the activity sought to be licensed. The Staff believes the Commission did not adopt this position in CLI-84-8 and that it was the Commission's judgment that GDC 17 means the same for low power operation (including Phases I and II) as for full power operation and must be satisfied (or an exemption must be granted) before any license (including a low power license) may be issued. The Staff therefore

^{2/} As detailed in the Affidavit of Marvin W. Hodges attached to the Staff Response, there is no power generation during Phase I and hence no decay heat and no need for cooling systems to remove decay heat. Hodges Affidavit, ¶ 3. During Phase II, unless a loss-of-coolant accident (LOCA) occurs, core cooling could be achieved without AC power using the existing core water inventory and passive heat loss to the environment. Affidavit, ¶ 6. Because the plant will be at essentially ambient pressure during Phase II, the Staff would not normally postulate the possibility of a LOCA. Even if a LOCA were to occur during Phase II, however, more than thirty days are available before AC power is needed to restore cooling. Affidavit, ¶¶ 7-8.

opposed summary disposition of the ultimate issue involved, whether a license for Phases I and II should be granted, pending the hearing on whether the standards for an exemption were met.

In its Order, the Licensing Board took a position similar to that of the Staff. The Board granted summary disposition of the technical issues raised in LILCO's Motions, but it refused to authorize the grant of a license for Phases I and II in the absence of an exemption.

B. The Motion for Directed Certification

LILCO raises three grounds in support of its Motion for Directed Certification. First, LILCO argues that the public interest might be harmed if any ambiguities in CLI-84-8 are not eliminated. Second, LILCO asserts that the parties might be spared the expense and delay of litigating issues associated with Phases I and II. Finally, it is claimed that resolution of the ambiguities in CLI-84-8 would affect the basic structure of the proceeding in a pervasive manner by removing all issues associated with Phases I and II from the proceeding and by allowing a license for those Phases to issue.

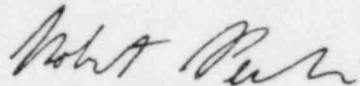
Inasmuch as the hearing on all issues other than security has already been completed for all phases of low power operation, the Staff does not believe that the second and third grounds enumerated by LILCO warrant directed certification. However, the Staff does believe that early consideration of the issue raised by LILCO's Motion for Directed Certification would be in the public interest. The Staff has already met with the Commission once (on July 25, 1984) for guidance on how to apply

CLI-84-8 to other license applications.^{3/} The question raised by LILCO here, whether (or how) GDC 17 should be applied to fuel loading and low power testing, is an issue that may well involve other general design criteria and other license applications.^{4/} Because this issue or similar ones are likely to recur in the future, the Staff believes early Commission guidance would be helpful.

CONCLUSION

For the reasons stated above, the Staff believes that Commission guidance on the issues raised by LILCO's Motion for Directed Certification would be beneficial and therefore supports early consideration of the issues raised in the Motion.

Respectfully submitted,



Robert G. Perlis
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 17th day of August, 1984

^{3/} Following this meeting, the Commission requested that "an intensive program of reexamination of the exemption process should be undertaken [by the Staff] with the goal of providing the Commissioners with an analysis and proposed changes in approximately 30 days" Memorandum from Samuel J. Chilk to William J. Dircks (July 27, 1984). This reexamination is currently in progress.

^{4/} Indeed, in a similar situation to that posed by LILCO, the Staff recently granted an exemption from GDC 17 to Duke Power Company to permit fuel loading and precriticality testing at the Catawba facility.

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In the Matter of)
LONG ISLAND LIGHTING COMPANY)
(Shoreham Nuclear Power Station,)
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Docket No. 50-322-OL-4
(Low Power)

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO LILCO'S MOTION FOR DIRECTED CERTIFICATION OF THE LICENSING BOARD'S ORDER RULING ON LILCO'S MOTIONS FOR SUMMARY DISPOSITION OF PHASES I AND II" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 17th day of August, 1984:

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
TEXAS UTILITIES ELECTRIC COMPANY,)
 et al.)
)
(Comanche Peak Steam Electric)
 Station, Units 1 and 2))

Docket Nos. 84-100-23 P4:53
50-445
50-446

DOCKETED
USNRC
OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO APPLICANTS' MOTION FOR AUTHORIZATION TO ISSUE LICENSE TO CONDUCT FUEL LOAD AND PRECRITICALITY TESTING" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or deposit in the Nuclear Regulatory Commission's internal mail system (*), or by express mail or overnight delivery (**), or by hand delivery (***), this 22nd day of August, 1984:

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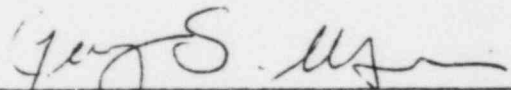
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