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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

Docket No. 50-322-~~84~~ SEP 10 P12:10
(OL)

DOCKETED
USNRC

NRC STAFF RESPONSE TO SUFFOLK COUNTY'S
MOTION TO STRIKE PORTIONS OF THE JOINT
TESTIMONY OF CARL H. BERLINGER, ET AL.

On September 5, 1984, Intervenor Suffolk County moved to strike portions of the NRC Staff's testimony and Exhibit 7 thereto, concerning emergency diesel generators. The Staff opposes the motion.

The passage sought to be stricken from the Staff's testimony reads as follows:

- Q. In your opinion would the AE piston skirt be considered unique in design for diesel engines of this size, speed, and load requirements that would make it vulnerable to excessive side thrust load?
- A. (Henriksen, Sarsten) No. Through Ricardo Consulting Engineers, Ltd., Shoreham-by-Sea, England, consultants to PNL, we have available a tabulation (page 5 of Exhibit 7 enclosed with this testimony) accompanied by a sketch (page 7, Exhibit 7), of seven piston skirts, made by different manufacturers. The tabulation includes cylinder bore, data to accurately locate the wrist pin in the piston skirt, maximum firing pressures, and rated BHP/cylinder. The data clearly indicate that there is no drastic difference in design criteria and operating conditions between the AE piston skirts and the other six piston skirts represented in the tabulation. Furthermore, the data indicate that the side thrust load likely to be experienced by the AE piston skirt will be representative of what is demanded of piston skirts in medium-speed, high BMEP diesel engines today.

1/ Joint Testimony of Carl H. Berlinger, Spencer H. Bush, Adam J. Henriksen, Walter W. Laity, and Professor Arthur Sarsten on Contentions Concerning TDI Emergency Diesel Generators at the Shoreham Nuclear Power Station, at p. 53.

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The basis for Intervenor's motion is that this particular portion of the testimony is "hearsay", and that "Mr. Henriksen and Professor Sarsten apparently lack the necessary expertise to testify on the subject of excessive piston side thrust, as evidenced by their total reliance upon the statements made in the Ricardo report for their testimony." Motion at 1. These assertions fail to demonstrate that either the portion of testimony in question or Exhibit 7 should be stricken.

First, it is well established that hearsay testimony is admissible in NRC adjudicatory proceedings. See, e.g., Southern California Edison Co. (San Onofre Nuclear Generating Station, Units 2 and 3), ALAB-717, 17 NRC 346, 366 (1983); Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), ALAB-355, 4 NRC 397, 411-12 (1976). The hearsay character of such evidence is significant "only insofar as it bears on the question of its reliability" under 10 C.F.R. § 2.743(c). San Onofre, supra, 17 NRC at 366. Suffolk County has given no basis to question the reliability of the Ricardo report with respect to this matter; moreover, the County will have ample opportunity to test the witnesses' knowledge and familiarity with the bases for the cited portion of the Ricardo report during cross-examination; any further challenge by Intervenor as to the reliability of the witnesses' testimony should await the outcome of cross-examination.^{2/}

Second, to the extent that Suffolk County's Motion challenges the witnesses' expertise, such a challenge is premature and should await the

^{2/} The Staff is confident as to the reliability of the witnesses' testimony, based upon their familiarity with the Ricardo report. The Ricardo report, in fact, resulted from a meeting between the Staff's consultants and Ricardo Engineering in August, 1984.

outcome of voir dire. In this regard, the witnesses' professional qualifications annexed to their testimony demonstrates their expertise, and the Staff believes their expertise will be recognized by the Board. In addition, the witnesses' testimony, itself, demonstrates their expertise in this matter, as reflected in their responses to the two questions which immediately precede the question and answer challenged by the County (at p. 52):

Q. Are you familiar with the term "piston skirt side thrust load"?

A. (Henriksen, Sarsten) Yes.

Q. Do you consider the County's contention regarding excessive side thrust to be a matter of concern for pistons installed in the engines at Shoreham?

A. (Henriksen, Sarsten) No. In our experience with medium-speed, high brake mean effective pressure, 4-cycle engines, piston skirt side thrust has never been a problem in piston skirt design. Staff testimony at 52.

As this testimony demonstrates, the witnesses are familiar with piston skirt side thrust, and have indicated that their experience in this area provides a basis for their opinion as to whether piston skirt side thrust presents a problem in piston skirt design for engines of the general type under consideration. Any assertion by the County that the witnesses' testimony is founded upon total reliance on the Ricardo report is thus clearly contradicted within the four corners of the testimony itself and should be rejected.

In sum, the Staff believes that its witnesses have ample expertise and knowledge to explain the Ricardo report in the evidentiary hearings, where they will be subject to cross-examination by the County. To the

extent that the Staff's witnesses would be deemed at that time to lack the necessary expertise or are otherwise unable to support the Ricardo report during cross-examination, renewed motions to strike would provide the County with adequate relief. For all of these reasons, Suffolk County's motion to strike should be denied.

Respectfully submitted,

Richard J. Goddard

Richard J. Goddard
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 7th day of September, 1984.

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NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)

LONG ISLAND LIGHTING COMPANY)

(Shoreham Nuclear Power Station,
Unit 1))

Docket No. 50-322-1
(OL)

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO SUFFOLK COUNTY'S MOTION TO STRIKE PORTIONS OF THE JOINT TESTIMONY OF CARL H. BERLINGER, ET AL." 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, by deposit in the Nuclear Regulatory Commission's internal mail system, or as indicated by a double asterisk, by hand delivery, this 7th day of September, 1984:

Lawrence Brenner, Esq.*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Fabian G. Palomino, Esq.
Special Counsel to the Governor
Executive Chamber
State Capitol
Albany, NY 12224

Dr. George A. Ferguson **
Administrative Judge
School of Engineering
Howard University
2300 - 6th Street, N.W.
Washington, D.C. 20059

Howard L. Blau, Esq.
217 Newbridge Road
Hicksville, NY 11801

Dr. Peter A. Morris*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

W. Taylor Reveley III, Esq.
Hunton & Williams
707 East Main Street
Richmond, VA 23212

Jonathan D. Feinberg, Esq.
New York State Department of
Public Service
Three Empire State Plaza
Albany, NY 12223

Cherif Sedkey, Esq.
Kirkpatrick, Lockhart, Johnson
& Hutchison
1500 Oliver Building
Pittsburgh, PA 15222

Stephen B. Latham, Esq.
John F. Shea, III, Esq.
Twomey, Latham & Shea
Attorneys at Law
P.O. Box 398
33 West Second Street
Riverhead, NY 11901

Atomic Safety and Licensing
Board Panel*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

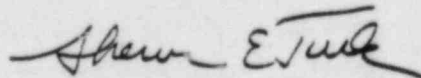
Atomic Safety and Licensing
Appeal Board Panel*
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Gerald C. Crotty, Esq.
Ben Wiles, Esq.
Counsel to the Governor
Executive Chamber
State Capitol
Albany, NY 12224

Herbert H. Brown, Esq. **
Lawrence Coe Lanpher, Esq.
Karla J. Letsche, Esq.
Kirkpatrick, Lockhart, Hill,
Christopher & Phillips
1900 M Street, N.W.
8th Floor
Washington, D.C. 20036

Docketing and Service Section*
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

James B. Dougherty, Esq.
3045 Porter Street, N.W.
Washington, D.C. 20008
Anthony Farley **
Peter S. Everett, Esq.
Hunton & Williams
2000 Pennsylvania Avenue, N.W.
Washington, D.C. 20036



Sherwin E. Turk

COURTESY COPY LIST

Edward M. Barrett, Esq.
General Counsel
Long Island Lighting Company
250 Old County Road
Mineola, NY 11501

Mr. Brian McCaffrey
Long Island Lighting Company
Shoreham Nuclear Power Station
P.O. Box 618
North Country Road
Wading River, NY 11792

Marc W. Goldsmith
Energy Research Group, Inc.
400-1 Totten Pond Road
Waltham, MA 02154

Martin Bradley Ashare, Esq.
Suffolk County Attorney
H. Lee Dennison Building
Veteran's Memorial Highway
Hauppauge, NY 11788

Ms. Nora Bredes
Shoreham Opponents Coalition
195 East Main Street
Smithtown, NY 11787

Ken Robinson, Esq.
N.Y. State Dept. of Law
2 World Trade Center
Room 4615
New York, NY 10047

Chris Nolin
New York State Assembly
Energy Committee
626 Legislative Office Building
Albany, New York 12248

MHB Technical Associates
1723 Hamilton Avenue
Suite K
San Jose, CA 95125

Hon. Peter Cohalan
Suffolk County Executive
County Executive/Legislative Bldg.
Veteran's Memorial Highway
Hauppauge, NY 11788

Mr. Jay Dunkleberger
New York State Energy Office
Agency Building 2
Empire State Plaza
Albany, New York 12223

Leon Friedman, Esq.
Costigan, Hyman & Hyman
120 Mineola Boulevard
Mineola, NY 11501