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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

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

Docket No. 50-322-OL

December 20, 1984

MEMORANDUM AND ORDER DENYING MOTION BY  
SUFFOLK COUNTY AND NEW YORK STATE TO  
RESPOND TO LILCO'S PROPOSED REPLY FINDINGS

By joint motion dated December 14, 1984, Suffolk County and the State of New York seek leave to reply to "LILCO's Reply to Suffolk County and State of New York Proposed Findings of Fact," received on December 4, 1984. The subject of those findings is the record completed to date (it has been reopened) on the emergency diesel generator crankshaft issues. The motion is denied.

The leave to reply to a reply to their original proposed findings is being sought by the County and State ". . . for the limited purpose of answering LILCO's unfair and unfounded charges that the County and the State mislead the Board, distort the record, and propose findings that have no evidentiary support." The Board is not unmindful that in as

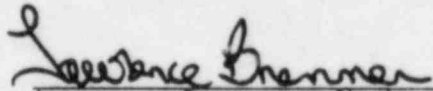
vigorous a litigation as this one, strong and capable advocates feel the visceral desire to have the last word in response to criticism of the merits of their clients' cause. Such a process would be endless and needless. Indeed, the County and State's joint proposed findings, which were filed after LILCO's, vigorously criticizes the view of the evidence put forward in LILCO's proposed findings. LILCO, in turn, was thereby stimulated in its proposed reply findings to counter-attack strongly the County's and State's attack on LILCO's proposed findings.

Enough is enough. We suffer no paucity of paper on the parties' disparate views of the evidentiary record compiled to date on the crankshaft issues. The Board's contemplation that parties without a right to reply to proposed findings (beyond that afforded by filing later in sequence) might have the need to reply and could so move if necessary (Tr. 24,360-61), was intended as a safety valve in the event truly new substantive matter was raised for the first time in proposed findings filed later in sequence by another party. This is not the case at hand. Indeed, from the point of view of an intervenor such as the County (and interested State), we contemplated that such a situation could occasionally arise primarily due to the contents of the later-filed NRC-Staff's proposed findings (which include but is not restricted to a reply), rather than in an applicant's reply to the intervenor's own proposed findings.

For the reasons stated, the motion of Suffolk County and New York State seeking leave to reply to LILCO's proposed reply findings is denied.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

  
Lawrence Brenner, Chairman  
ADMINISTRATIVE JUDGE

Bethesda, Maryland  
December 20, 1984

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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 Denying Motion by Suffolk County and New York State to Respond to LILCO's Proposed Reply Findings" 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  
December 20, 1984

Attachment

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