



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

January 4, 1985

Mr. John L. Behan  
Member of the Assembly  
State of New York  
Post Office Drawer R.R.R.  
Montauk, New York 11954

Dear Assemblyman Behan:

Thank you for your letters of September 11 and November 1, 1984, which have been referred to me for reply. In them you discuss issues in controversy in the Shoreham operating license proceeding and urge reversal of the Atomic Safety and Licensing Board decision authorizing low-power testing.

The Commission subscribes to the view that in administering the regulatory process, it must be fair to all parties; and that its decisions must be sound technically, thereby fulfilling its mandate to protect the health and safety of the public.

With regard to the substantive issues your letter discusses, I trust you will understand, therefore, that since these are matters to be resolved in the Shoreham adjudicative proceeding, the Commissioners' role as adjudicators in the proceeding means that they are barred from addressing the merits of those issues except in an adjudicatory context on the record of the proceeding.

Sincerely,

*Herzel H. E. Plaine*  
Herzel H. E. Plaine  
General Counsel

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PDR ADOCK 05000322  
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THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

JOHN L. BEHAN  
25<sup>TH</sup> ASSEMBLY DISTRICT  
THE PLAZA  
P. O. DRAWER R R R  
MONTAUK, N. Y. 11954  
(516) 666-8656

ROOM 719  
LEGISLATIVE OFFICE BUILDING  
ALBANY, N. Y. 12248  
(518) 485-5997

COMMITTEES  
VETERANS AFFAIRS  
RANKING MINORITY MEMBER  
GOVERNMENTAL OPERATIONS  
RANKING MINORITY MEMBER  
ENVIRONMENTAL CONSERVATION  
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□ ALBANY OFFICE  
□ DISTRICT OFFICE

November 1, 1984

Nunzio J. Palladino, Chairman  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555

Dear Mr. Palladino:

I have written to you before concerning the licensing of the Shoreham Nuclear Power Station. Given yesterday's NRC licensing Board recommendation that the Long Island Lighting Company be given approval to begin low-power testing I must again voice my strongest objections to such NRC approval.

Major questions still remain unresolved with respect to full-power licensing of the Shoreham facility. The most important of the unresolved questions concern evacuation planning and the emergency diesel generators.

As you are well aware, Suffolk County and the State of New York have determined, based upon the best available evidence, that the development of an emergency response plan to assure the safety of Long Island and in the event of a nuclear accident at Shoreham is an impossibility. This was not an arbitrary and capricious finding, as NRC actions would suggest, but a sincere effort on the part of the governments of Suffolk County and the State to serve the public interest by protecting the public safety.

You would be ill-advised to dismiss the intent or the commitment of the county and state with regard to this issue. As Three Mile Island has proven, accidents do and can happen. It is a real and instant threat, one which we do not take lightly and neither should the NRC.

There is, to put it quite simply, a serious legal question as to the status of an evacuation plan which is neither sanctioned nor participated in by the county or state. Both the President and the Secretary of Energy have stated, and I quote from a letter from

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President Reagan that ...."this Administration does not favor the imposition of Federal Government Authority over the objections of state and local governments in matters regarding the adequacy of an emergency evacuation plan...."

However, as if the evacuation problem were not enough by itself, LILCO has also been unable to show that its emergency diesel generators can meet NRC safety requirements. In good conscience how can the NRC license a plant when the facility does not meet safety requirements imposed by the NRC itself.

I find it absolutely mind-boggling that the NRC would compromise the physical safety of the people of Long Island for the economic safety of a utility. Public safety cannot and must not be compromised.

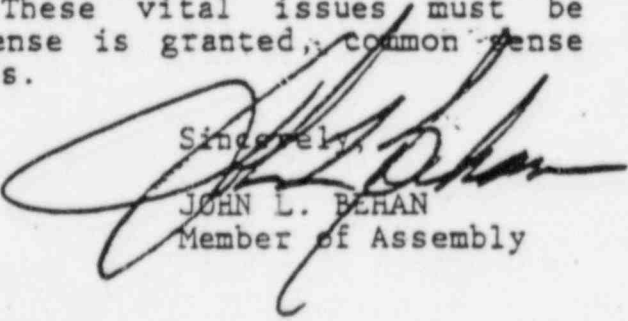
The ramifications involved with licensing Shoreham before these questions are resolved could have a profound negative impact upon Suffolk County. The granting of a low-power license will allow LILCO to load nuclear fuel and to begin the nuclear chain reaction, with absolutely no assurance that full-power licensing will be permitted. Or, has that decision been made already?

In my estimation, the pivotal question is whether Shoreham will be granted a low-power license. If so, I'm afraid that we on Long Island will be presented with a fait accompli, and a nuclear reactor which is neither wanted nor needed will be imposed upon us.

It has always been my belief that the NRC (formally the Atomic Energy Commission) was created on behalf of the public's safety and welfare. Instead, the NRC has become a captive of the nuclear industry. You have the power and authority to change that.

I urge you to act in the public interest and reject the ASLB recommendations of approval for a low-power license for Shoreham. These vital issues must be addressed before any license is granted, common sense and reason dictates no less.

Sincerely,



JOHN L. BEHAN  
Member of Assembly

JLB:msm