



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

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION
RELATED TO AMENDMENT NO. 9 TO POSSESSION ONLY LICENSE NO. NPF-82
SHOREHAM NUCLEAR POWER STATION, UNIT 1
DOCKET NO. 50-322

1.0 INTRODUCTION

By letter of June 28, 1990, and as supplemented by letters of June 13, June 27, October 31, and December 5, 1991, and March 27 and April 10, 1992, the Long Island Power Authority (LIPA) and the Long Island Lighting Company (LILCO) jointly requested an amendment to the Possession Only License, No. NPF-82 for the Shoreham Nuclear Power Station, Unit 1 (SNPS).

License No. NPF-82 was transferred from LILCO to LIPA by Order, dated February 29, 1992. This proposed amendment would implement the administrative changes requested and eliminate the technical specification requirement for 10 CFR Part 55 licensed operators.

2.0 BACKGROUND

In 1988 and 1989, a series of negotiations took place involving New York State and LILCO. These negotiations resulted in an agreement between New York and LILCO (1989 Settlement Agreement). Under the 1989 Settlement Agreement, LILCO is contractually committed never to operate Shoreham as a nuclear facility and to transfer the Shoreham facility to LIPA for decommissioning. The 1989 Settlement Agreement became legally binding on June 28, 1989. The licensee began defueling the reactor on June 30, 1989, and completed this on August 9, 1989. All fuel is stored in the spent fuel pool.

LILCO's obligations never to operate Shoreham and to transfer it to LIPA were reconfirmed in a subsequent Asset Transfer Agreement between LILCO and LIPA. The Asset Transfer Agreement established the framework by which all LIPA costs related to transfer, maintenance, and eventual decommissioning are to be paid by LILCO. Additionally, LIPA and LILCO entered into a Site Cooperation and Reimbursement Agreement (Site Agreement), dated January 24, 1990, which established the specific mechanism by which LILCO would make payment of Shoreham-related costs incurred by LIPA and provided for the cooperation of the parties both before and after approval of the license transfer.

On March 20, 1991, the NRC staff published in the Federal Register a "Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing" for the requested amendment (56 FR 11781). By letters dated April 19, 1991, the Scientists and Engineers for Secure Energy and the Shoreham Wading River Central School District (the petitioners) submitted

comments and petitions to intervene and requests for prior hearing on this proposed license transfer. The Commission referred the intervention petition to the Atomic Safety and Licensing Board (ASLB) on June 3, 1991. In its Scheduling Order dated October 23, 1991, the ASLB established November 18, 1991 as the deadline for the petitioners to submit their contentions. By letter dated June 3, 1992, the petitioners requested permission to withdraw their opposition in accordance with their settlement agreement with the licensee. The ASLB, in its Order, LBP-92-14, dated June 17, 1992, granted the petitioners' motion to dismiss, with prejudice, and terminated the proceeding. In section 4, below, the staff makes a final no significant hazards determination.

The NRC amended LILCO's license to a possession only status on June 14, 1991, which prevents the operation of the Shoreham reactor as well as prevents the movement of fuel assemblies into the reactor vessel without prior NRC approval. Additionally, on November 22, 1991, the NRC approved the licensee's decommissioning funding plan which is based, in part, on the Site Agreement.

In preparing this evaluation, the staff has applied the criteria and review areas required by 10 CFR 50.80 "Transfer of Licenses," as appropriate.

3.0 EVALUATION

By Order, dated February 29, 1992, the SNPS Facility Operating License No. NPF-82 (Possession Only License or POL) was transferred from LILCO to LIPA. This transfer required a number of administrative changes to the license and to the Administrative Controls section of the SNPS Technical Specifications. Also, the SNPS Technical Specifications need to be revised to reflect the elimination of the requirement for 10 CFR Part 55 licensed operators. The first part of this safety evaluation (Section 3.1) will address the management, technical, and financial qualifications of the LIPA organization with respect to license transfer. The second part of this safety evaluation (Section 3.2) will cover the specific changes to the license and the staff's corresponding evaluation of these changes.

3.1 Management, Technical, and Financial Qualifications

The staff has completed its evaluation of the management and technical qualifications of the LIPA organization. This evaluation was conducted in accordance with the criteria set forth in NJREG-0800, "Standard Review Plan" (SRP) Section 13.1.1, "Management and Technical Support Organization," and Section 13.1.2-13.1.3, "Operating Organization." The staff's evaluation of LIPA's financial qualifications was conducted separately in conjunction with the approval of the Shoreham decommissioning funding plan. It should be noted that information pertinent to an antitrust review pursuant to 10 CFR 50.33a is not applicable. 10 CFR 50.33a (a)(3) exempts applicants from the review if the applicant's electrical generating capacity is 200 MW(e) or less. Shoreham as currently licensed, and LIPA, the transferee have no electric generating capacity.

3.1.1 Shoreham Staffing and Technical Qualifications

In letters dated June 28, 1990, and June 13, 1991, LILCO/LIPA stated that nearly 90 percent of the Shoreham management and technical site positions will be filled by incumbent LILCO personnel currently performing the same or similar functions. In addition, LIPA entered into a Management Services Agreement with the New York Power Authority (NYPA) under which NYPA is providing technical and management services to NYPA as its prime contractor for Shoreham activities. Per this agreement, LILCO is obligated to make LILCO employees available to NYPA for decommissioning activities related to Shoreham.

Changes to the existing site organization will be limited to upper management and will not significantly impact the day-to-day conduct of routine physical and technical activities at Shoreham. The Shoreham upper management positions affected will be filled by NYPA employees (LIPA/NYPA co-employees) assigned on a full-time basis to LIPA for the purpose of maintaining Shoreham in its present defueled status and for the eventual decommissioning of the plant. The upper management positions to be filled by LIPA/NYPA co-employees are Executive Vice-President, Shoreham Project; Shoreham Resident Manager; Operations Maintenance Department Head; Radiological Controls Director; Decommissioning Department Head; and Quality Assurance/Quality Control Department Head.

Based on (1) the retention and use, in future activities, of nearly 90 percent of the incumbent Shoreham staff, (2) the NYPA Management Services Agreement, and (3) the proposed management changes, the staff concludes that the proposed licensee, LIPA, has an acceptable methodology for the integrated support required for the maintenance of Shoreham in its present defueled condition and for eventual decommissioning of the plant. Thus, the organization meets the acceptance criteria in Section 13.2 of NUREG-0800.

3.1.2 Corporate Relationships

In a letter dated June 27, 1991, and at a meeting on July 1, 1991, LILCO/LIPA described the basic corporate relationships among the LIPA President, Shoreham Project; the LIPA/NYPA co-employees; Shoreham; and other parties providing support related to the management, operation, and subsequent decommissioning of Shoreham.

Coupled with the NYPA Management Services Agreement, the staff concludes that the lines of authority, communication, and control that exist among LILCO, LIPA, and other interested parties, are acceptable for the management of Shoreham in its present defueled condition and for the eventual decommissioning of the plant and is consistent with Section 13.1 of NUREG-0800.

3.1.3 Management Qualifications

In letters dated June 23, 1990, and June 13, 1991, LILCO/LIPA provided position descriptions and the qualifications required of the management positions to be filled by LIPA/NYPA co-employees. The position descriptions

formally establish the technical and managerial qualifications required for the LIPA/NYPA positions. Resumes of the LIPA/NYPA co-employees were provided which demonstrate the technical and managerial qualifications of the six co-employees.

The staff concludes that the proposed Shoreham management position descriptions and qualification requirements meet the acceptance criteria in SRP Section 13.1 are acceptable for the management of Shoreham. The staff has also determined that the proposed LIPA/NYPA co-employees for these Shoreham management positions are technically and managerially competent to manage Shoreham in its present defueled condition and for the eventual decommissioning of the plant. Additionally, should LIPA need to replace any of its co-employees, the replacement co-employee's qualifications will meet or exceed those specified in the above position descriptions. These qualifications will meet ANSI N18.1-1971, as appropriate for the permanently defueled status of the Shoreham facility.

3.2.4 Financial Qualifications:

The staff's assessment of LIPA's financial qualifications with respect to license transfer, concentrated on LIPA's ability to adequately fund all Shoreham related activities, including decommissioning. The staff has determined that the Asset Transfer Agreement and Site Agreement establish the requisite financial qualifications necessary for license transfer. These agreements oblige LILCO to deposit into LIPA accounts those funds necessary to cover all Shoreham related activities of LIPA/NYPA, including asset transfer, license transfer, maintenance, and decommissioning activities.

Essentially, LILCO's financial well being condition assures LIPA's financial qualifications to carry-out matters pertaining to Shoreham after the transfer of the POL. In its June 7, 1990, approval of the Site Agreement between LIPA and LILCO, the New York State Public Service Commission (PSC) determined that costs attributable to Shoreham are reimbursable from the ratepayers. The PSC, in its April 11, 1991, letter to the NRC reaffirmed the implication of its June 7, 1990, decision and further committed to ensure that such Shoreham related costs are recovered. Even if the PSC does not grant rate relief for Shoreham related costs, there is reasonable assurance that LILCO is sufficiently solvent to cover all Shoreham related costs and has at its disposal an unused line of credit of approximately \$300 million, if needed. The staff's judgement is based on LILCO's significantly improved net income in the last two years and the fact that both their net income and retained earnings substantially exceed the estimated decommissioning cost. Additionally, at the commencement of LIPA's decommissioning effort, LILCO has access to the \$10 million emergent decommissioning account. Therefore, based on the above, the staff concludes there is reasonable assurance of LILCO's financial well being in matters related to Shoreham.

The NRC approved LILCO's proposed decommissioning funding plan on November 22, 1991, when it issued an exemption from the requirement to have full decommissioning funding at the start of decommissioning. LILCO's funding plan is based primarily on the Asset Transfer and Site agreements mentioned above. In

its November approval of the Shoreham decommissioning funding plan, the staff determined that the plan is adequate to protect the health and safety of the public and to adequately decommission Shoreham. In addition to LILCO funding LIPA in accordance with the Asset Transfer and Site Agreements, the funding plan requires LILCO to set aside \$10 million in a separate account for emergent decommissioning needs and to commit a portion of its line of credit sufficient to cover remaining decommissioning costs. Therefore, the staff concludes that LIPA, which will receive its funds through the Asset Transfer and Site Agreements and will be the ultimate recipient of the decommissioning funding plan, has the financial resources to safely maintain the plant in its defueled, non-operating condition and that LIPA is financially qualified to become the transferee of the POL for Shoreham Nuclear Power Station.

3.1.5 Commission Conditions in CLI-92-4

In CLI-92-4 (February 26, 1992), the Commission directed the NRC staff to issue an order approving the license transfer subject to the conditions that (1) the license revert to LILCO if LIPA cease to exist or is otherwise found to be unqualified to hold the license and (2) LILCO certifies to the NRC that it will retain and maintain the necessary capability and qualifications to take over the plant.

On February 29, 1992, the NRC staff issued an order approving the transfer of Facility Operating License No. NPF-82 from LILCO to LIPA and authorized LIPA to undertake the activities and obligations of the Shoreham license in accordance with the Commission's Memorandum and Order CLI-92-4. The February 29, 1992, Order was subject to the following: (1) the license will revert to LILCO in the event LIPA ceases to exist or is otherwise found to be unqualified to hold the license; (2) LILCO will maintain adequate capability and qualifications to take over the plant in such event; (3a) a joint LIPA/LILCO contingency plan as described above shall be submitted to the Director, Office of Nuclear Reactor Regulation by March 30, 1992; (3b) unless such plan is approved by the Director, Office of Nuclear Reactor Regulation by April 30, 1992, or other date to be determined by the Director, Office of Nuclear Reactor Regulation, the Shoreham license will revert to LILCO; (4) until otherwise authorized by the Director, Office of Nuclear Reactor Regulation, the facility Technical Specifications currently in effect shall be followed by LIPA.

In a letter of March 27, 1992, LIPA submitted the required contingency plan, "Joint Contingency Plan of the Long Island Lighting Company and Long Island Power Authority Required by NRC Order Approving Shoreham License Transfer - February 29, 1992." LIPA supplemented this contingency plan in a letter of April 10, 1992.

In its letter of April 20, 1992, the NRC staff found that there was assurance that LILCO could reassume the obligations and responsibilities of the Shoreham license in the event that the license reverted to LILCO.

Consistent with the Commission's guidance in CLI-92-4 and the terms of the February 29, 1992 Order approving the transfer, the license has been amended to include the following condition: "In the event LIPA ceases to exist or is

otherwise found to be unqualified to hold the license, this license will revert to LILCO in accordance with the provisions of the "Joint Contingency Plan of the Long Island Lighting Company and Long Island Power Authority Required by NRC Order Approving Shoreham License Transfer - February 29, 1992," submitted by letter dated March 27, 1992, as supplemented on April 10, 1992."

3.1.6 Conclusion

Based on the above evaluation, the staff concludes that:

- (1) The corporate and plant organizational structure and functions for the maintenance of Shoreham in its present defueled condition and for the eventual decommissioning of the plant are acceptable.
- (2) The management controls, lines of authority, and channels of communication among the organizational units involved in the management, operation, and technical support for the maintenance of Shoreham in its present condition and for the eventual decommissioning of the plant are acceptable.
- (3) The LIPA/NYPA co-employees assigned to fill the upper management positions at Shoreham are technically and managerially competent to manage Shoreham in its current defueled condition.
- (4) The Asset Transfer Agreement and Site Agreement establish the necessary financial qualifications for LIPA to be the Shoreham licensee.

In summary, the staff concludes that the owner, LIPA, has the necessary managerial, technical, and financial resources to provide for the decommissioning of the plant, and the protection of public health and safety. The license has been conditioned to provide that, in the event that LIPA ceases to exist or is otherwise found unqualified, the license will revert to LILCO in accordance with the joint contingency plan.

3.2 License Changes

The following is a list of the proposed license changes necessary to effect the proposed license transfer amendment. The staff evaluation of each change follows:

1. Change: License NPF-82, Paragraph 2.A. Substitute "Shoreham" in place of "licensee's" in describing the Defueled Safety Analysis Report and the Environmental Report.

Evaluation: This change is administrative in nature and consistent with LIPA as the new licensee and, therefore, is acceptable.

2. Change: License NPF-82, Paragraph 2.B. - Replace "Long Island Lighting Company (LILCO)," with "Long Island Power Authority (LIPA)."

Evaluation: This change reflects LIPA as the licensee and is acceptable.

3. Change: License NPF-82, Paragraph 2.B.(2)- Delete "receive" and "and use." Delete "reactor operation" and "Updated" and replace with "the original reactor core load" and "Defueled," respectively.

Evaluation: This change prevents LIPA from receiving and using special nuclear material, but allows them to possess the original reactor core load. The change also clarifies the applicable safety analysis report. This change is consistent with the defueled condition of the Shoreham plant and consistent with expected activities during decommissioning. This change is conservative in that it limits LIPA to possession of the spent fuel. The staff concludes that this change is acceptable.

4. Change: License NPF-82, Paragraph 2.B.(5)- Delete "be" and replace with "may have previously been."

Evaluation: This change clarifies that the byproducts and special nuclear material that LIPA may possess are from previous plant operation rather than from any future operation. This change is consistent with the non-operational status of the plant, and therefore, is acceptable.

5. Change: License NPF-82, Paragraph 2.C.(2) - Delete "Long Island Lighting Company" and replace with "Long Island Power Authority."

Evaluation: This change reflects LIPA as the licensee and is acceptable.

6. Change: Technical Specification, Paragraph 6.1.1 RESPONSIBILITY -Delete "Plant" and replace with "Resident."

Evaluation: This change reflects the title change from Plant Manager to Resident Manager. This change is consistent with the defueled condition of the plant and is acceptable.

7. Change: Technical Specification, Paragraph 6.1.2 RESPONSIBILITY -Delete "licensed" and replace with "certified fuel handling." Delete "Vice President, Office of Nuclear" and replace with "Executive Vice President of Shoreham Project."

Evaluation: This change reflects the fact that licensed operators are no longer required at Shoreham in that SNPS can no longer perform licensed operator activities as specified in 10 CFR 50.54. Certified fuel handlers, however, are required. This change also reflects the implementation of the LIPA organization for license transfer and is consistent with the non-operating status of the plant. The staff concludes that this change is acceptable.

8. Change: Technical Specification, Paragraph 6.2.1 b. Nuclear Organization - Modify to read: "The Executive Vice President of Shoreham Project shall..." and delete "operating."

Evaluation: This change reflects the implementation of the LIPA organization for license transfer and is consistent with the non-operating status of the plant. The staff concludes that this change is acceptable.

9. Change: Technical Specification, Paragraph 6.2.1 c. Nuclear Organization - replace "Plant Manager" with "Resident Manager." Delete "safe operation" and replace with "safety."

Evaluation: This change reflects the title change from Plant Manager to Resident Manager and his responsibility for unit maintenance and safety instead of operations. This change is consistent with the defueled condition of the plant and is acceptable.

10. Change: Technical Specification, Paragraph 6.2.1 d. Nuclear Organization - Delete "operating" and replace with "operations."

Evaluation: This change reflects the non-operational condition of the plant and is acceptable.

11. Change: Technical Specification, Paragraph 6.2.2 a. UNIT STAFF - Delete "Reactor" and replace with "Fuel Handling," delete "License" and replace with "Certification*," and add footnote "*Certification of personnel performing these functions shall be in accordance with the licensee's NRC-approved certification program."

Evaluation: 10 CFR 50.54 specifies those activities which require licensed operators. These include activities such as affecting the reactivity or power level of the reactor, start-up and power operations, refueling, and core alteration.

The shutdown and defueled condition at Shoreham requires no licensed operators since there are no "licensed operator activities" at Shoreham. Therefore, substituting certified fuel handlers for licensed operators is allowed by the Commission's regulations and is acceptable.

The NRC staff, in its letter of October 18, 1991, approved LILCO's revised Shoreham Nuclear Power Station Licensed Operator Requalification Program (Requalification Program) based on the non-operational status of the facility. LIPA has committed to develop a certified fuel handlers training program identical to the NRC-approved Requalification Program. The only significant difference between LIPA's proposed certified fuel handler training program and a currently NRC licensed senior reactor operator for the Shoreham facility will be that the testing of the certified fuel handler will be administered by the LIPA rather than by the NRC. The NRC Region I Office will inspect the LIPA certified fuel handler training program prior to implementation of the program.

The NRC staff concludes that both LIPA's proposals, the substituting certified fuel handlers for NRC licensed senior reactor operators and

the use of a NRC - approved certified fuel handler training program, and acceptable. Thus, the proposed TS changes are acceptable. -

12. Change: Technical Specification, Paragraph 6.2.2.b. UNIT STAFF - Delete "licensed" and replace with "certified*."

Evaluation: This change has been reviewed and found to reflect LIPA's organization for the defueled condition of the plant and is acceptable for reasons mentioned in change 11. above.

13. Change: Technical Specification, Paragraph 6.2.2.c. UNIT STAFF - Delete "licensed" and replace with "certified*."

Evaluation: This change has been reviewed and found to reflect LIPA's organization for the defueled condition of the plant and is acceptable for reasons mentioned in change 11. above.

14. Change: Technical Specifications, Paragraph 6.2.2 Last paragraph UNIT STAFF - Replace "Plant" with "Resident."

Evaluation: This change reflects the title change from Plant Manager to Resident Manager and is acceptable.

15. Change: Technical Specifications, Paragraph 6.3.1 UNIT STAFF QUALIFICATIONS - Add footnote after "Conduct of Operations**." The footnote shall read: "**The terms "operation" and "operations" as used herein refer to actions by licensee personnel and utilization of Shoreham systems and equipment to support activities which are required in the DEFUELED MODE or other non-operating plant configuration, including, but not limited to, safe fuel storage and handling, radiological control, personnel habitability, facility maintenance, and decommissioning."

Evaluation: This change appropriately characterizes the meaning of the term "operation" and "operations" for the defueled, non-operating conditions at Shoreham. This change is acceptable.

16. Change: Technical Specification, 6.5.1 Review of Operations Committee (ROC) - Replace "REVIEW OF OPERATIONS COMMITTEE (ROC)" with "SITE REVIEW COMMITTEE (SRC)."

Evaluation: This change reflects LIPA's organization for the shutdown, defueled condition of Shoreham. The SRC retains a review function similar to the ROC, to the extent applicable to the defueled condition of the plant. This change is acceptable.

17. Change: Technical Specifications, Paragraph 6.5.1.1 FUNCTION - Replace "ROC" with "SRC" and "Plant" with "Resident."

Evaluation: The change to "SRC" and "resident" reflects LIPA's organization as stated in changes 14. and 16. above, and is therefore, acceptable.

18. Change: Technical Specification, Paragraph 6.5.1.2 COMPOSITION - Replace "ROC" with "SRC" and increase the number of members from "four" to "six or more."

Evaluation: This change reflects LIPA's organization and is appropriate for the defueled, non-operating condition of the plant.

In addition, the increase in the number of members does not adversely affect the functions to be performed by the SRC. Therefore, this change is acceptable.

19. Change: Technical Specification, Paragraph 6.5.1.3 ALTERNATES - Replace "ROC" with "SRC" and increase the number of alternates from "one" to "two."

Evaluation: This change is consistent with LIPA's organization and is acceptable based upon the defueled, non-operating condition of the plant.

20. Change: Technical Specifications, Paragraph 6.5.1.4 MEETING FREQUENCY - Replace "ROC" with "SRC."

Evaluation: This change is consistent with LIPA's organization for a defueled, non-operating plant and is acceptable.

21. Change: Technical Specifications, Paragraph 6.5.1.5 QUORUM - Replace "ROC" with "SRC" and increase the number of "other members" from "two" to "four."

Evaluation: This change is consistent with LIPA's organization and is acceptable based upon the defueled, non-operating condition of the plant.

22. Change: Technical Specifications, Paragraph 6.5.1.6 a. RESPONSIBILITIES - Replace "ROC" with "SRC" and "Plant" with "Resident."

Evaluation: This change is consistent with LIPA's organization and is acceptable based on the defueled, non-operating condition of the plant.

23. Change: Technical Specifications, Paragraph 6.5.1.6 c. RESPONSIBILITIES - Include "the Possession Only License" as a review item for the SRC.

Evaluation: This change requires the SRC to review all proposed changes to Possession Only License No. NPF-82 in addition to Appendix A of the Technical Specifications. This is an appropriate review item for a defueled, non-operating plant and is, therefore, acceptable.

24. Change: Technical Specifications, Paragraph 6.5.1.6 e. RESPONSIBILITIES - Replace "responsible Vice President" with "Executive Vice President of Shoreham Project."

Evaluation: This change is administrative in nature in that it reflects the Vice President responsible for Shoreham under LIPA's organization. This change is acceptable.

25. Change: Technical Specifications, Paragraph 6.5.1.6 h. RESPONSIBILITIES - Replace "Plant Manager" with "Resident Manager."

Evaluation: This change is acceptable in that it reflects the appropriate title changes under the new organization.

26. Change: Technical Specifications, Paragraph 6.5.1.6 p. RESPONSIBILITIES - Replace "responsible Vice President" with "Executive Vice President of Shoreham Project."

Evaluation: This change is acceptable in that it reflects the appropriate titles under LIPA's organization.

27. Change: Technical Specification, Paragraph 6.5.1.6 RESPONSIBILITIES - Add new responsibility: "q. Review of proposed changes to the approved Decommissioning Plan."

Evaluation: This change requires the SRC to review proposed revisions to the approved Decommissioning Plan. This is an appropriate review item for a defueled, non-operating plant that has an NRC approved decommissioning plan and is, therefore, acceptable.

28. Change: Technical Specifications, Paragraph 6.5.1.7 a. and c. - Replace "ROC" with "SRC," "Plant Manager" with "Resident Manager," and "responsible Vice President" with "Executive Vice President of Shoreham Project."

Evaluation: This change is acceptable in that it reflects the appropriate titles under LIPA's organization for a defueled, non-operating plant.

29. Change: Technical Specifications, Paragraph 6.5.1.8 RECORDS - replace "ROC" with "SRC," "responsible Vice President" with "Executive Vice President of Shoreham Project," and "Nuclear Review Board" with "Independent Review Panel."

Evaluation: This change is consistent with LIPA's organization for a defueled, non-operating plant and is acceptable. The Independent Review Panel is evaluated in 30. below.

30. Change: Technical Specifications, Paragraph 6.5.2 NUCLEAR REVIEW BOARD (NRB) - Replace with "INDEPENDENT REVIEW PANEL (IRP)."

Evaluation: The change replaces the Nuclear Review Board (NRB) with the Independent Review Panel (IRP). The IRP has similar duties as the NRB, but limited to those appropriate for the defueled, non-operating condition of Shoreham. The staff concludes that the IRP will provide

the necessary independent review function similar to the NRB in evaluating the conduct of licensed activities in the defueled condition of Shoreham. Therefore, the staff concludes that this change is acceptable.

31. Change: Technical Specifications, Paragraph 6.5.2.1 FUNCTION - Replace "NRB" with "IRP." Delete "and audit." Delete "in the areas of;" and all of a, b, c, d, and e; replace with: "in the areas of nuclear safety, radiological controls, and regulatory compliance. In addition, the IRP shall be cognizant of audit activities as described in Specification 6.5.2.6." Replace "and advise the vice president ... 6.5.2.8" with "the LIPA chairman and ultimately to the LIPA board of Trustees."

Evaluation: This change removes the responsibility for conducting audits from the IRP. The IRP must, however, continue to review all activities specified and be cognizant of all audit activities. This change is consistent with the defueled, non-operating condition of Shoreham and the new LIPA management organization, and therefore, is acceptable.

32. Change: Technical Specifications, Paragraph 6.5.2.2 COMPOSITION - Replace with the following:

"The IRP shall be composed of the IRP Chairman and a minimum of four additional IRP members. The Chairman and all members of the IRP shall be appointed by the LIPA Board of Trustees from outside organizations with demonstrated expertise in the areas of utility nuclear operations, academia and/or research in nuclear fields, or nuclear regulation.

The Chairman and all other members of the IRP shall have qualifications that meet the education and experience requirements of Section 4.7 of ANSI/ANS 3.1-1978. The IRP, on a collective basis, shall be technically competent so as to be able to provide oversight in the areas of administrative controls, nuclear power plant operations, nuclear engineering, quality assurance, radiological safety, mechanical engineering, and electrical engineering."

Evaluation: This change is administrative in nature and does not materially alter the composition and qualification requirements of the previous independent review function of the NRB relevant to a defueled, non-operating reactor. This change is acceptable.

33. Change: Technical Specifications, Paragraph 6.5.2.3 ALTERNATES - Delete in its entirety.

Evaluation: This change deletes the appointment of alternate IRP members, but does not adversely effect the independent review function of the IRP. This change is acceptable.

34. Change: Technical Specifications, Paragraph 6.5.2.4 CONSULTANTS - Delete in its entirety.

Evaluation: This change deletes the use of consultants not contemplated under the new organization. This change is consistent with the activities to be conducted as a defueled, non-operating plant.

35. Change: Technical Specifications, Paragraph 6.5.2.5 MEETING FREQUENCY - Change this paragraph number to 6.5.2.3. Replace "NRB" with "IRP."

Evaluation: This change reflects the previously deleted paragraph numbers and reflects the appropriate LIPA organization title. This change is acceptable.

36. Change: Technical Specifications, Paragraph 6.5.2.6 QUORUM - Change this paragraph number to 6.5.2.4. Replace "NRB" with "IRP." Delete "and audit." Delete "three but not less than ... operation of the unit." and replace with: "two other members. The IRP Chairman shall appoint an alternate chairman from among the other members in writing, in advance of any IRP meetings in which the IRP Chairman is not available to participate."

Evaluation: This change reflects the previously deleted paragraph numbers and reflects the appropriate LIPA organization title. In addition, this change implements the quorum and alternate chairman requirements consistent with the LIPA organization. This change is acceptable.

37. Change: Technical Specifications, Paragraph 6.5.2.7 REVIEW - Change this paragraph number to 6.5.2.5. Replace "NRB" with "IRP" and "ROC" with "SRC."

Evaluation: This change reflects the appropriate LIPA organization titles and is acceptable.

38. Change: Technical Specifications, Paragraph 6.5.2.8 AUDITS - Change this paragraph number to 6.5.2.6. Replace "NRB" with "IRP." Replace "shall encompass:" with "and audit frequencies are as follows:" Replace "President or the Vice President, Office of Nuclear," with "President of Shoreham Project or the Executive Vice President of Shoreham Project," in paragraph 6.5.2.6 f.

Evaluation: This change reflects the new organization and its responsibilities as previously stated above. This change is administrative in nature and is acceptable.

39. Change: Technical Specifications, Paragraph 6.5.2.9 RECORDS - Change paragraph number to 6.5.2.7. Replace "NRB" with "IRP." Replace "President" and "Vice President, Office of Nuclear" with "President of Shoreham Project" and "Executive Vice President of Shoreham Project" respectively. Replace "6.5.2.7" with "6.5.2.5" and "6.5.2.8" with "6.5.2.6."

Evaluation: This change is consistent with LIPA's organization for Shoreham and appropriately rennumbers the paragraphs. Thus, the change is acceptable.

40. Change: Technical Specifications, Paragraph 6.6 REPORTABLE EVENT ACTION - Replace "ROC" with "SRC," and "responsible Vice President" with "Executive Vice President of Shoreham Project."

Evaluation: This change is acceptable for reasons previously mentioned in Changes 16. and 24. above.

41. Change: Technical Specifications, Paragraph 6.7.2 PROCEDURES AND PROGRAMS - Replace "ROC" with "SRC," "Plant Manager" with "Resident Manager" and "Plant Division Manager" with "Division Manager."

Evaluation: This change is consistent with the new LIPA organization positions and titles, and is, therefore, acceptable.

42. Change: Technical Specifications, Paragraph 6.7.3 b. and c. PROCEDURES AND PROGRAMS - Replace "Senior Reactor Operators License" with "Senior Fuel Handling Operators Certification" and "ROC" with "SRC" and "Plant Manager" with "Resident Manager."

Evaluation: This change is acceptable for reasons previously mentioned in Changes 11. and is consistent with LIPA's organization for a defueled non-operating plant.

43. Change: Technical Specifications, Paragraph 6.9.3. h. RECORD RETENTION - Delete "Operating." Replace "Final" with "Defueled." Replace "ROC" with "SRC," "NRB" with "IRP," and add: "and of meetings of the Review of Operations Committee and Nuclear Review Board held by the original licensee."

Evaluation: This change is consistent with the LIPA organization and titles, and appropriately identifies the LILCO records that should be retained. This change is acceptable.

44. Change: Technical Specifications, Paragraph 6.12b. PROCESS CONTROL PROGRAM (P.C.P.) - Replace "ROC" with "SRC" and "Plant Manager" with "Resident Manager."

Evaluation: This change is consistent with the new LIPA organization positions and titles, and is, therefore, acceptable.

45. Change: Technical Specifications, Paragraph 6.13b. OFFSITE DOSE CALCULATION MANUAL (ODCM) - Replace "ROC" with "SRC" and "Plant Manager" with "Resident Manager."

Evaluation: This change is consistent with the new LIPA organization positions and titles for a defueled, non-operating plant, and is, therefore, acceptable.

4.0 FINAL NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION

The Commission made a proposed determination that the amendment involves no significant hazards consideration which was published in the Federal Register (56 FR 11781) on March 20, 1991 and provided a 30-day period for the public to comment on its determination and/or request a hearing. On April 19, 1991, the Scientists and Engineers for Secure Energy and the Shoreham Wading River Central School District (the Petitioners) filed NSHC comments and an intervenors action requesting a prior hearing concerning the LILCO/LIPA joint application for license transfer. These petitions were opposed by LILCO/LIPA and the Commission's staff in filings dated May 6, 1991, and May 17, 1991, respectively. The Commission referred the intervention petitions to the Atomic Safety and Licensing Board (ASLB) on June 3, 1991. Pursuant to an ASLB Scheduling Order dated October 23, 1991, petitioners submitted contentions on November 18, 1991. On June 3, 1992, the petitioners requested permission to withdraw their opposition in accordance with their settlement agreement with the licensee. The ASLB in its Order, LBP-92-14, dated June 17, 1992, granted the petitioners' motion to dismiss, with prejudice, and terminated the proceeding. Because a request for hearing was filed, although subsequently withdrawn, concerning the proposed transfer, the staff is making the final no significant hazards determination pursuant to 10 CFR 50.91(a)(3).

The Commission has provided standards for significant hazards considerations. Under the Commission's regulations in 10 CFR 50.92, a proposed amendment to a facility operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequence of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The staff's findings regarding these standards are set forth below.

- (1) The Defueled Safety Analysis Report (DSAR), previously prepared and submitted by LILCO, demonstrates that the plant conditions and licensed responsibilities to be assumed by LIPA, represent a substantially reduced radiological risk from that associated with full power operation of Shoreham as previously evaluated in the Shoreham Updated Safety Analysis Report (USAR). Only two events from the spectrum of accidents previously evaluated in the USAR remain relevant to the defueled plant condition. These are the Fuel Handling Accident and the Liquid Radwaste Tank Rupture.

The proposed amendment will not significantly increase the probabilities or the consequences of these two events. Specifically, there will be no physical changes to the facility, resulting from the proposed amendment. The reactor will not be refueled and any fuel handling operations will be performed by certified personnel using existing equipment and approved procedures. Additionally, all

license conditions, technical specification limiting conditions for fuel handling operations, surveillance requirements, and technical specification programs as proposed by LILCO in the DSAR, will remain unchanged by this amendment. On this basis, the probability of a fuel handling accident would not be increased.

Regarding Fuel Handling Accident consequences, the DSAR postulates the worst case scenario wherein all gaseous fission products in the spent fuel are released into the environment. Since LIPA is not allowed to further irradiate the fuel and the fuel has only been irradiated a short time, any releases would be bound by that analysis. Therefore, there is no possibility for activities under the transferred license to result in any increase in the consequences of a Fuel Handling Accident.

As for the Liquid Radwaste Tank Rupture event, the proposed amendment would not involve any changes to Shoreham's radwaste systems. Any radwaste processing could not significantly increase the source terms assumed in the DSAR for this event given the overall low levels of plant contamination due to the short period of operation. The calculated doses for this event in the DSAR analysis are orders of magnitude below the USAR estimated doses and well within applicable limits. Thus, there would be no significant increase in the probability or consequences of a Liquid Radwaste Tank Rupture event.

Based on the above, the staff concludes that the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

- (2) Under the proposed amendment, there will be no modifications made to the facility which could alter the applicable events as previously evaluated in LILCO's current plant safety analyses, LILCO's Radiological Safety Analysis for Spent Fuel Storage and Handling, and the DSAR, or which could create new events of radiological concern. The activities to be conducted under the transferred license will not involve further irradiation of the existing fuel nor receipt of additional fuel. Activities will be oriented toward maintenance of the facility in the defueled condition until a decommissioning plan is approved by the NRC. LIPA's activities will be consistent with those currently being conducted at Shoreham, and will be performed in accordance with appropriate procedures. The plant conditions for which the revised accident analyses have been performed will remain valid. As noted previously, Shoreham programs, plans and Technical Specifications as modified by LILCO's DSAR and related submittal will be adapted to reflect ownership by LIPA. Furthermore, LIPA has personnel with sufficient experience and qualifications to manage and conduct licensed activities at Shoreham. Therefore, the proposed amendment does not create the

possibility of a new or different kind of accident from any accident previously evaluated.

- (3) Plant safety margins applicable to the defueled, non-operating condition of Shoreham are established in LILCO's DSAR and associated proposed Technical Specification amendments, as well as in applicable programs, plans, and procedures referenced therein. The proposed amendment will entail the transfer of all responsibilities and obligations associated with these documents to LIPA. Accordingly, LIPA's activities will be consistent with the safety margins established therein. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

Below is a summary of the petitioners' contentions filed on November 18, 1991.

- a. An Environmental Impact Statement (EIS) must be prepared prior to approving the transfer of the Shoreham Possession Only License to LIPA, because the transfer is within the scope of the proposal to decommission Shoreham.
- b. The need for an EIS on the proposal to decommission Shoreham is required by the 1988 and earlier versions of 10 CFR 51.20(b)(5) since the Final Generic Environmental Impact Statement on Decommissioning Nuclear Facilities does not apply to Shoreham.
- c. The Environmental Report on decommissioning should address all issues prescribed in Regulatory Guide 4.2 (Rev. 2, July 1976).
- d. The Decommissioning Plan submitted by LIPA proposes the DECON alternative which forecloses alternative decommissioning methods including SAFSTOR and ENTOMB and therefore requires an EIS.
- e. The required EIS on the decommissioning proposal must include the indirect effects such as construction of fossil fuel plants and transmission lines to replace Shoreham.
- f. LIPA is not financially qualified to become the licensee of the Shoreham facility because it is bankrupt, has no assurance of funding non-Shoreham related activities, and has not complied with the state laws concerning bond repayment. Also, there is no assurance that LILCO will be able to pay LIPA's costs under the Site Cooperation and Reimbursement Agreement through rate relief from the PSC.
- g. LILCO's management does not meet the character requirements for an NRC licensee due to past lack of candor and openness concerning its opposition to LILCO rate increases.

The staff has addressed each of these comments in the corresponding items below and concluded that nothing in the submissions of the Petitioners affects the proposed no significant hazards consideration determination.

- a. On April 3, 1991, the Commission in CLI-91-04 indicated that petitioners could proffer a properly supported contention that several license amendments are an inseparable part of decommissioning and require preparation of an EIS. This license amendment only revises the license to show LIPA as the holder of the Shoreham POL and allows LIPA to maintain Shoreham in its defueled, non-operating status. It does not authorize a particular method of decommissioning or result in environmental impacts beyond those allowed by the current license. Thus, there is no foreclosure of decommissioning costs, methods, or options. In addition, the staff has prepared an Environmental Assessment and concluded that the proposed amendment will not have a significant effect on the quality of the human environment. Therefore, no EIS is required.
- b. The license transfer does not authorize decommissioning. The NRC separately, authorized decommissioning of Shoreham by Order dated June 11, 1992. As mentioned in (a) above, this license transfer allows LIPA, as transferee, to maintain the defueled, non-operating status of Shoreham, under the conditions of the POL. The transfer does not have a significant effect on the human environment. No EIS is required for the transfer of the Shoreham license or to decommission the facility. The regulation cited to support the assertion that an EIS is required for a proposal to decommission was superseded by the 1988, Decommissioning Rule. Contrary to the petitioners' assertion, the findings of the Final Generic Environmental Impact Statement on Decommissioning Nuclear Facilities, NUREG-0586 (August 1988) (GEIS) are applicable to the Shoreham decommissioning proposal. The limited operation of the Shoreham, and its corresponding low radiological contamination as compared to a plant ceasing operations at the end of its useful life, show that the impacts of decommissioning Shoreham are bounded by the GEIS. The petitioners fail to explain how the environmental impacts of decommissioning Shoreham fall outside the scope of the impacts already considered in the GEIS.
- c. This contention focuses on the separate action of authorizing decommissioning of the Shoreham facility and is, therefore, not applicable to this license transfer.

Moreover, the Atomic Safety and Licensing Board (the Board) rejected a similar contention concerning the POL application, finding that compliance with Regulatory Guide, an NRC guidance document, is not required. LBP-91-39 (November 15, 1991). In addition, the petitioners appear to challenge the format of the Environmental Report and do not show how the Environmental Report submitted by LIPA is substantively inadequate.

- d. The question of whether the decommissioning plan submitted by LIPA precludes alternative decommissioning methods is not applicable to this license transfer. As mentioned previously, this license transfer does not authorize any additional action by LIPA that is not already allowed by the current license. LIPA's decommissioning

plan was approved separately by Order dated June 11, 1992. The petitioners do not explain how this license transfer will preclude decommissioning alternatives.

- e. As stated above, concerns about the contents of an EIS on decommissioning are not applicable to this license transfer. In addition, a similar contention filed in the Shoreham POL proceeding was found to be inadmissible. The Board, in LBP-91-39 (November 15, 1991), ruled that indirect effects of decommissioning would be outside the scope of any required NEPA review because the Commission has held that restart or other methods of generating electricity may not be considered.
- f. As noted in Section 3.1.4 of this evaluation, the staff's assessment of LIPA's financial qualifications for becoming the licensee of the Shoreham facility, concentrated on LIPA's ability to adequately fund all Shoreham related activities up to and including decommissioning.

The staff determined that the Asset Transfer Agreement and Site Agreement, coupled with LILCO's decommissioning funding plan, establish the requisite financial qualifications necessary for license transfer. These agreements oblige LILCO to deposit into LIPA accounts those funds necessary to cover all Shoreham related activities of LIPA/NYPA, including asset transfer, license transfer, maintenance, and decommissioning activities. The ability of LIPA to fund non-Shoreham related activities and their financial condition in these areas have no bearing on their ability to fund Shoreham activities due to the completely separate and legally binding responsibility of LILCO to provide funds to LIPA for the express purpose of maintaining and ultimately decommissioning Shoreham. In effect, LILCO's financial condition assures LIPA's financial well being in matters pertaining to the responsibilities at Shoreham, regardless of any financial problems that LIPA may have receiving funding from the State for non-Shoreham activities. Furthermore, LILCO's financial qualifications in matters related to Shoreham is further assured in the New York Public Service Commission's (PSC), June 7, 1990, decision approving the Site Agreement between LIPA and LILCO. This decision determined that costs attributable to Shoreham are reimbursable from the ratepayers. These costs include those incurred in license transfer, LIPA's maintenance of Shoreham, and the ultimate decommissioning of the plant. In the unlikely event that the PSC were to not grant rate relief for Shoreham related costs, it is the staff's judgment that LILCO is sufficiently financially solvent to cover all Shoreham related costs. This judgment is based on LILCO's significantly improved net income in the last two years and the fact that both their net income and retained earnings substantially exceed the estimated decommissioning cost of \$186 million. Additionally, LILCO has an unused line of credit of approximately \$300 million and has already set aside \$10 million in a separate decommissioning account to put Shoreham in a safe condition, if an emergency arises. Therefore, based on the

above, the staff concluded that there is reasonable assurance of LILCO's financial well being in matters related to Shoreham is assured.

The NRC approved LILCO's proposed decommissioning funding plan on November 22, 1991, with its issuance of an exemption from the requirement to have full decommissioning funding at the start of decommissioning (56 FR 61265). LILCO's funding plan is based primarily on the Asset Transfer and Site Agreements mentioned above. In its November approval of the Shoreham decommissioning funding plan, the staff determined that the plan is adequate to protect the health and safety of the public and to adequately decommission Shoreham. In addition to LILCO funding LIPA in accordance with the Asset Transfer and Site Agreements, the funding plan requires LILCO to set aside \$10 million in a separate account for emergent decommissioning needs and to commit a portion of its line of credit sufficient to cover remaining decommissioning costs. Therefore, the staff concluded that LIPA, which will receive its funds through the Asset Transfer and Site Agreements and will be the ultimate recipient of the decommissioning funding plan, has the financial resources to safely maintain the plant in its defueled, non-operating condition, and that LIPA is financially qualified to become the licensee of the Shoreham Nuclear Power Station.

Additionally, the New York Court of Appeals in a decision of October 22, 1991, upheld the validity of the Agreements between LIPA/LILCO. These agreements hold LILCO legally responsible to fund the maintenance activities and the decommissioning efforts at Shoreham.

- g. The NRC staff conducted its review of the LIPA management consistent with its reviews of other prospective licensees. The staff's evaluation concentrated on areas of managerial and technical competence and was conducted in accordance with the criteria set forth in NUREG-0800, "Standard Review Plan" (SRP) Section 13.1.1, "Management and Technical Support Organization." The staff concluded that:
- (1) The proposed corporate and plant organizational structure and functions for the maintenance of Shoreham in its present defueled condition and for the eventual decommissioning of the plant are acceptable;
 - (2) The management controls, lines of authority, and channels of communication among the organizational units involved in the management, operation, and technical support for the maintenance of Shoreham in its present condition and for the eventual decommissioning of the plant are acceptable; and
 - (3) The LIPA/NYPA co-employees assigned to fill the upper technical and managerial positions at Shoreham are acceptable.

With respect to the allegation that the LIPA Chairman, Richard Kessel, lacked openness at a February 1991 NRC meeting when LILCO was questioned about opposition to its rate hike proposal, the staff reviewed this matter shortly after the Newsday report of Mr. Kessel's response. It was the staff's judgment that this incident was not significant and did not meet the NRC's threshold for further investigation as it did not indicate any opposition to LILCO recovery of Shoreham costs, the matter at issue.

In addition, consistent with CLI-92-4, the license has been revised to add a condition that in the event LIPA ceases to exist or is otherwise found to be unqualified to hold the license, this license will revert to LILCO in accordance with the provisions of the "Joint Contingency Plan of the Long Island Lighting Company and Long Island Power Authority Required by NRC Order Approving Shoreham License Transfer - February 29, 1992," submitted by letter dated March 27, 1992, as supplemented on April 10, 1992.

In summary, the staff concluded that LIPA has the necessary managerial and technical resources and competence to provide for (1) the maintenance of Shoreham in its present defueled state, (2) the eventual decommissioning of the plant, (3) the protection of public health and safety, and (4) there is reasonable assurance that LILCO could reassume the obligations and responsibilities of the Shoreham license if it reverted to LILCO.

The staff concludes that the petitioners have failed to show or set out with particularity how the proposed amendment to transfer the license authority of Shoreham to LIPA would increase the probability or consequences of a previously evaluated accident, create the possibility of a new or different type of accident, or cause a significant decrease in a margin of safety. Petitioners' comments do not alter the staff's initial determination that the amendment involves no significant hazards consideration.

The NRC staff has reached a final determination that the requested license amendment does not involve a significant hazards consideration. The staff's no significant hazards consideration determination is based on the preceding evaluation, the non-operating, defueled condition of the facility, and the Commission's Memorandum and Orders of October 17, 1990 (CLI-90-8) and January 24, 1991 (CLI-91-1), which addressed the NEPA review necessary for decommissioning and issuance of a POL.

5.0 STATE CONSULTATION

In accordance with the Commission's regulations, the State of New York was contacted about the proposed license transfer. The State had no comments.

6.0 ENVIRONMENTAL CONSIDERATION

Pursuant to 10 CFR 51.21, 51.32, and 51.35, an environmental assessment and finding of no significant impact was published in the Federal Register on September 3, 1992 (57 FR40481). Based upon the environmental assessment, the Commission has determined that issuance of this amendment will not have a significant effect on the quality of the human environment.

7.0 CONCLUSION

The Commission has concluded, based on the considerations discussed above, that: (1) because the license transfer did not involve a significant increase in the probability or consequences of accidents previously evaluated, or create the possibility of a new or different kind of accident from any accident previously evaluated, and does not involve a significant reduction in a margin of safety, the amendment does not involve a significant hazards consideration, (2) there is reasonable assurance that the health and safety of the public will not be endangered by the proposed activities, and 3) such activities will be conducted in compliance with the Commission's regulations and issuance of this amendment will not be inimical to the common defense and security or the health and safety of the public.

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