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KIRKPATRICK & LOCKHART

1900 M STREET, N.W.
WASHINGTON, D.C. 20036
TELEPHONE (202) 452-7000
TELEX 440209 HPH UI
TELECOPIER (202) 452-7052

ONE BOSTON PLACE
BOSTON, MA 02108
(617) 973-1300
1428 BRICKELL AVENUE
MIAMI, FL 33131
(305) 374-8112
1500 OLIVER BUILDING
PITTSBURGH, PA 15222
(412) 355-6500

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(202) 452-7011

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Nunzio J. Palladino, Chairman
Commissioner James K. Asselstine
Commissioner Frederick M. Bernthal
Commissioner Thomas M. Roberts
Commissioner Lando W. Zech, Jr.
U.S. Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D.C. 20555

Re: Judicial Review of Shoreham Phase
III/IV License; Docket No. 50-322-OL-4

Dear Members of the Commission:

We have just received a copy of the Commission's decision authorizing an exemption for Shoreham low power operation. The following judicial review time table was set: if Suffolk County and the State of New York file papers for emergency judicial review of today's order prior to 5:00 p.m. on Wednesday, February 13, then no low power license will be issued until 5:00 p.m. on Tuesday, February 19, 1985. Suffolk County and the State of New York intend to seek such emergency judicial review if our agency stay requests are denied. In essence, therefore, the NRC's provision summarized above compels the State and County to ask the Court of Appeals to issue a decision on an Emergency Motion by 5:00 p.m. on February 19.

We hereby request that the Commission, in the event that it does not grant the pending County/State stay request, alter the time table set forth above. The D.C. Circuit rules look with disfavor on Emergency Motions seeking a decision in seven days or less. See D.C. Cir. Rule 6(j). Indeed, under the D.C. Circuit rules, there is normally a 7-day period for filing responses to motions and then a 3-day period thereafter for filing a reply. D.C. Cir. Rule 6(b) and (c).

Shoreham low power testing is not on any "critical path" toward any later operation of the plant. Even assuming problems were to occur during testing, LILCO itself predicts no more than 42 days to complete all testing authorized by today's order.

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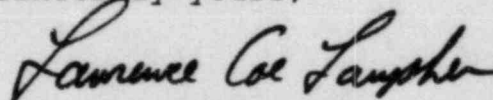
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NRC Commissioners
February 12, 1985
Page 2

Therefore, there is no justification for setting forth a judicial review schedule which requires an alteration of the normal Court of Appeals briefing schedule. We, accordingly, suggest that the Commission alter its review provision as follows: Suffolk County and the State of New York to file any requests for a Court of Appeals stay no later than 5:00 p.m. on Wednesday, February 13. Thereafter, in accordance with the Court of Appeals rules, LILCO and the NRC shall file responses by February 20, and the County and the State of New York will file any reply by February 25 (the first business day after the weekend). The Commission should then specify that the license will be issued after 5:00 p.m. on February 28, 1985, unless the Court of Appeals otherwise rules.

By setting forth the foregoing schedule, the NRC will allow careful judicial consideration of the views of all parties on the Emergency Motion which we intend to file. There is no public interest to be gained by preventing the Court from having the time period it customarily requires for such consideration.

Sincerely yours,



Lawrence Coe Lanpher
Attorney for Suffolk County

LCL/dk

cc: Herzel Plaine, Esq. (by hand on 2/13)
LILCO Counsel (by telecopier)
Staff Counsel (by hand on 2/13)
Service List (by first-class mail)