

371

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING APPEAL BOARD

Administrative Judges:

Alan S. Rosenthal, Chairman
Gary J. Edles
Howard A. Wilber

February 12, 1985

DOCKETED
USNRC

'85 FEB 13 12:08

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

SERVED FEB 13 1985

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

Docket No. 50-322-OL-4
(Low Power)

ORDER

Intervenors Suffolk County and the State of New York filed today a motion for a stay pendente lite of the Licensing Board's October 29, 1984 initial decision in the low power phase of this operating license proceeding.¹ The motion is summarily denied as untimely. The Commission's regulations explicitly require that any request for a stay pendente lite of a Licensing Board decision be filed "[w]ithin ten (10) days after service of [that] decision * * *". 10 CFR 2.788(a). There is no explanation in intervenors' submission respecting why the present stay request was not filed within the period prescribed by Section 2.788(a). Intervenors do note that earlier today the Commission voted to accord immediate effectiveness to the October 29 initial decision. There is nothing in

¹ LBP-84-45, 20 NRC 1343.

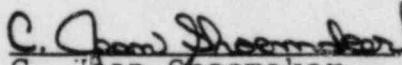
DS02

Section 2.788(a) to suggest, however, that that vote operated to start anew the running of the prescribed ten day period for filing a stay request.²

Needless to say, the denial of intervenors' motion should not be taken as implying any views on the merits of the issues presented by their pending appeal from the October 29 initial decision (which appeal has now been fully briefed and argued orally).

It is so ORDERED.

FOR THE APPEAL BOARD


C. Jean Shoemaker
Secretary to the
Appeal Board

² Although it has no bearing on our action here, we note the representation of the intervenors that they are also seeking stay relief from the Commission.