

696

RELATED CORRESPONDENCE

# KIRKPATRICK & LOCKHART

1900 M STREET, N.W.  
WASHINGTON, D.C. 20036

TELEPHONE (202) 452-0000  
TELEX 440209 HPH UI  
TELECOPIER (202) 452-7052

DOCKETED  
USNRC

FEB 22 A11:46

February 19, 1988  
OFFICE OF SECRETARY  
ROCKETING SERVICE  
BRANCH

ONE BOSTON PLACE  
BOSTON, MA 02108  
(617) 973-5400

1428 BRICKELL AVENUE  
MIAMI, FL 33131  
(305) 374-8112

1500 OLIVER BUILDING  
PITTSBURGH, PA 15222  
(412) 355-6500

WRITER'S DIRECT DIAL NUMBER

(202) 452-7022

BY HAND

DOCKET NUMBER  
PROD & UTIL FAC.

~~50-322~~ 06-3

Morton B. Margulies  
Administrative Law Judge  
Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Jerry R. Kline  
Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Frederick J. Shon  
Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Gentlemen:

As indicated on the enclosed certificate of service, Suffolk County is today filing the following:

DIRECT TESTIMONY OF LEON CAMPO ON BEHALF OF SUFFOLK COUNTY REGARDING LILCO'S PROFFERED EVIDENCE OF JANUARY 11

DIRECT TESTIMONY OF JAMES H. JOHNSON, JR. ON BEHALF OF SUFFOLK COUNTY REGARDING LILCO'S PROFFERED EVIDENCE OF JANUARY 11

DIRECT TESTIMONY OF EDWARD P. RADFORD ON BEHALF OF SUFFOLK COUNTY REGARDING LILCO'S PROFFERED EVIDENCE OF JANUARY 11

DIRECT TESTIMONY OF DEPUTY CHIEF INSPECTOR RICHARD C. ROBERTS ON BEHALF OF SUFFOLK COUNTY REGARDING LILCO'S PROFFERED EVIDENCE OF JANUARY 11

8502250493 850219  
PDR ADOCK 05000322  
T PDR

DSO 3

KIRKPATRICK & LOCKHART

Morton B. Margulies  
Jerry R. K'ne  
Frederick J. Shon  
Page Two  
February 19, 1985

As an accommodation to New York State, the County is also filing the following State testimony:

DIRECT TESTIMONY OF CHARLES E. KILDUFF ON BEHALF OF  
NEW YORK STATE REGARDING LILCO'S PROFFERED EVIDENCE  
OF JANUARY 11

DIRECT TESTIMONY OF LANGDON MARSH ON BEHALF OF THE  
STATE OF NEW YORK REGARDING LILCO'S PROFFERED EVIDENCE  
OF JANUARY 11<sup>1/</sup>

DIRECT TESTIMONY OF SARAH J. MEYLAND ON BEHALF OF THE  
STATE OF NEW YORK REGARDING LILCO'S PROFFERED EVIDENCE  
OF JANUARY 11

The above testimony is submitted pursuant to the Board's January 28 Memorandum and Order Granting LILCO's Motion to Reopen Record (hereinafter, "Order"). In its Order, the Board required the parties to "state specifically their positions concerning LILCO's [proffered] evidence" of January 11 on or before February 18, 1985.<sup>2/</sup> Among other things, the Board required any party "assert[ing] a need to submit direct testimony or other evidence on the merits of LILCO's designation of the [Nassau] Coliseum as a relocation center" to submit copies of all such testimony or other evidence upon the Board and other parties. Order, at 9. Suffolk County and New York State do assert a need to submit testimony concerning the merits of LILCO's designation of the Nassau Coliseum, for the reasons set forth in the testimony filed today.<sup>3/</sup> The County and State also "assert[] a need to cross-examine LILCO's witness on the substance of the designation

---

1/ The State of New York is submitting a statement of Mr. Marsh's qualifications under separate cover.

2/ The February 18 date was later changed to February 19 upon motion of the NRC Staff. Tr. 15,804-05.

3/ The testimony submitted by Suffolk County and New York State is responsive to LILCO's proffered evidence of January 11 and is also within the scope of the relocation center contentions previously admitted and litigated before the Board, i.e., Contentions 24.0, 24.P, 74, 75, and 77.

KIRKPATRICK & LOCKHART

Morton B. Margulies  
Jerry R. Kline  
Frederick J. Shon  
Page Three  
February 19, 1985

of the [Nassau Coliseum] as a relocation center." Order, at 9. Accordingly, they are filing with the Board cross-examination plans which indicate, as required by the Board's Order, the substance of what is expected to be asked and proved by cross-examination. Order, at 9.4/

With the filing of their testimony regarding LILCO's proffered evidence, the County and State also make the following observations and comments. First, particularly as a result of the Board's decision precluding discovery concerning LILCO's proposed use of the Nassau Coliseum (Tr. 15,804), it likely will be necessary to seek subpoenas compelling the attendance of non-parties at any hearing ordered by the Board. For example, Frank M. Rasbury, the Executive Director of the Nassau County Chapter of the American Red Cross, provides the basis for LILCO's assertion that Red Cross personnel will provide information and assistance to evacuees as they arrive at the Coliseum, and will coordinate with LILCO's personnel in the Nassau Coliseum monitoring and decontamination functions. See Robinson Affidavit, Attachment 3. Similarly, LILCO relies on E.B. Sumerlin, Jr., the General Manager of the Nassau Coliseum, for its assertion that LILCO would be permitted to use and have reasonable access to the Coliseum in the event of a Shoreham emergency. Robinson Affidavit, Attachment 1. Thus, should the Board decide to accept LILCO's proffered evidence into the record, thereby necessitating a hearing,<sup>5/</sup> it may be necessary to cross-examine witnesses other than LILCO's witness, Elaine Robinson.

Second, the County and State are aware that, under the Board's Order, LILCO is given one week to respond to the testimony filed today. Order, at 10. It is not appropriate in today's submission to speculate about the contents of such a LILCO response, particularly given the specific items which parties were to address

---

4/ Counsel for Suffolk County understands that the cross-examination plan for New York State will be telecopied directly to the Board.

5/ The County and State have previously noted that should the Board decide to accept LILCO's proffered evidence into the evidentiary record, the other parties have an absolute right to cross-examine that evidence, unless it is determined that there are no genuine issues of material fact in dispute. See Suffolk County and New York State Response to LILCO's Opposition to Nassau Coliseum Discovery Requests, dated February 4, 1985, at 8. The testimony filed today conclusively demonstrates that there are many material facts in dispute. Accordingly, a hearing to permit cross-examination will be necessary.

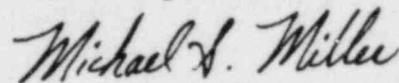
KIRKPATRICK & LOCKHART

Morton B. Margulies  
Jerry R. Kline  
Frederick J. Shon  
Page Four  
February 19, 1985

pursuant to the Board's Order. Depending upon the content of LILCO's response, however, the County and State may find it necessary to respond, in turn, to LILCO's response, and hereby expressly reserve their right to do so. Any such response will be filed as expeditiously as possible.

We have been authorized by counsel for the State of New York to state that the State of New York agrees with and endorses the contents of this letter.

Sincerely,



Michael S. Miller

Enclosure

cc: Shoreham Service List