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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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Before the Commission

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

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

MOTION TO STRIKE LILCO'S UNAUTHORIZED PLEADING
DATED NOVEMBER 8 AND MOTION FOR COMMISSION ATTENTION
TO THE SUFFOLK COUNTY AND NEW YORK STATE REQUEST
TO FILE WRITTEN BRIEFS AND PRESENT ORAL ARGUMENTS

On November 8, LILCO filed a pleading styled "LILCO's Comments Concerning Immediate Effectiveness of Low Power Initial Decision." The Commission should strike and discard that pleading as being unauthorized and unsolicited. The reasons are as follows:

(1) The low power Initial Decision is before the Commission pursuant to its May 16 Order, which established an immediate effectiveness review for this proceeding. On October 31, the County and State requested that the Commission provide the parties with an opportunity to present briefs and argument as part of the Commission's review. The Commission has still not set such a schedule. LILCO's pleading is therefore out of order.

(2) On November 2, LILCO urged the Commission to deny the County and State's request to present briefs and oral arguments. LILCO stated: "The Joint Request should be denied. No additional

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briefing is necessary on any issue; no oral argument is contemplated by the regulations. Instead, the Commission should dispense with any opportunity for comment." (LILCO "Opposition to Request for Written Briefs and Oral Arguments," p. 7.)

It is at best unseemly for LILCO to ask this Commission to prohibit the County and State from submitting their views while LILCO self-righteously submits its own.

(3) LILCO's written "comments" of November 8 grossly mask the true significance of the issues pending before the Commission in the low power Initial Decision. This Decision does no less than repudiate the Commission's May 16 Order and the "as safe as" standard which the Commission itself forged through a tumultuous process. The keystone of this proceeding and the due process rights of the parties are thus at issue, and there is no matter of more central relevance to the Commission's review than the views of the very parties whose interests were presumably addressed by the May 16 Order and shattered by the Licensing Board's Decision. This Commission should insist that the parties address this matter in briefs and oral arguments that give meaning to the significant controversy which the Licensing Board's Decision has created.

Shoreham is a serious and major case for the people of Suffolk County and New York State, and LILCO's footloose tactic of attempting to prevent the County and State from presenting their full views while LILCO presents its own is both abusive and intolerable. Earlier in this proceeding, the County and State were required to obtain relief from the U.S. District Court because

the Commission refused to listen to their claim of injustice. Again, these parties are seeking to inform the Commission of the Licensing Board's fundamental errors. There is no justification for the Commission to deny them this opportunity or to refuse to confront the full impact of the Licensing Board's Decision.

Accordingly, the County and State move that the Commission:

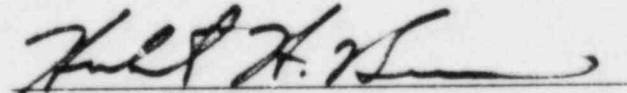
(1) strike as unauthorized LILCO's pleading of November 8;
and

(2) set a schedule for submission of written briefs and presentation of oral arguments in accordance with the Request filed by the County and State on October 31.

Respectfully submitted,

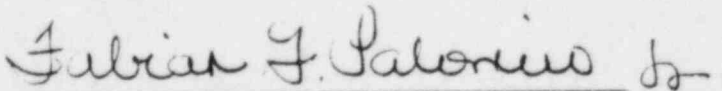
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November 9, 1984

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Before The Commission

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CERTIFICATE OF SERVICE

I hereby certify that copies of MOTION TO STRIKE LILCO'S UNAUTHORIZED PLEADING DATED NOVEMBER 8 AND MOTION FOR COMMISSION ATTENTION TO THE SUFFOLK COUNTY AND NEW YORK STATE REQUEST TO FILE WRITTEN BRIEFS AND PRESENT ORAL ARGUMENTS, dated November 9, 1984, have been served to the following this 9th day of November, 1984 by U.S. mail, first class, by hand when indicated by one asterisk, and by Federal Express when indicated by two asterisks.

Judge Marshall E. Miller, Chairman
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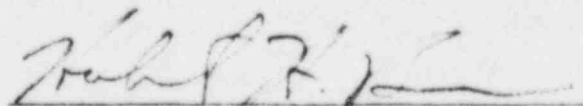
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DATE: November 9, 1984