

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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Before the Commission

In the Matter of)	
)	
LONG ISLAND LIGHTING COMPANY)	Docket No. 50-322-OL
)	
(Shoreham Nuclear Power Station,)	
Unit 1))	

LILCO'S NOTICE TO THE COMMISSION OF REPORT ON
ISSUES REMANDED BY ALAB-788 AND MOTION FOR LEAVE TO FILE

On October 31, the Appeal Board issued its Decision on the appeal of the "Brenner" Atomic Safety and Licensing Board's Partial Initial Decision on safety issues, LBP-83-57, 18 NRC 445 (1983). Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1), ALAB-788, ___ NRC ___. ALAB-788 remanded three "relatively minor matters" to the Licensing Board, involving (1) housekeeping, (2) environmental qualification, and (3) Unresolved Safety Issue A-47. ALAB-788 at 6.

On November 2 and 5, the Licensing Board issued Orders requiring concerned parties to report, with respect to each of these issues, (1) its current status, (2) further actions required of parties and the Board, and (3) effects of the remand on issuance of a low power license. LILCO is filing today with the Licensing Board the enclosed "LILCO's Report on Remand Issues Pursuant to Licensing Board's November 5, 1984 Order," with

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attachments. That Report sets out LILCO's belief that the housekeeping and environmental-qualification issues have been definitively resolved, without any need for further Licensing Board action beyond summary dismissal, on the bases of recent developments closing each of these issues and of affidavits prepared by NRC Staff members. It also sets forth LILCO's basis for concluding that the generic pendency of USI A-47 should not impede issuance of an operating license for Shoreham, regardless of whether further Licensing Board proceedings are to be held on it. LILCO is authorized to state that the NRC Staff concurs in its views on each of the three issues remanded to the Licensing Board.

LILCO seeks leave to file this Report and attachments with the Commission because of the obvious possible relationship between the pendency of remanded issues from ALAB-788 and the Commission's ability to consider the record suitably complete for rendition of a decision on a low power license pursuant to the September 5 Order and the October 29 Initial Decision of the Low Power ("Miller") Licensing Board. Good cause for filing exists since, in the absence of information from the parties, the Commission will have no way of knowing about the nature and likely disposition of these issues, and thus their disposition may be unnecessarily prolonged.^{1/}

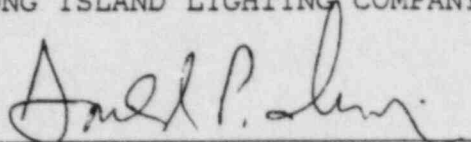
^{1/} LILCO has previously stated its intention to seek to place its views on the remanded issues before the Commission as

(footnote continued)

For the foregoing reasons, LILCO seeks leave to file with the Commission its attached Report on issues remanded by ALAB-788, with attachments.

Respectfully submitted,

LONG ISLAND LIGHTING COMPANY



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Donald P. Irwin
Robert M. Rolfe
Anthony F. Earley, Jr.

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DATED: November 14, 1984

(footnote continued)

promptly as possible. LILCO's Comments Concerning Immediate Effectiveness of Low Power Initial Decision, November 8, 1984, at 2 note 1. On November 9, Intervenors Suffolk County and New York State filed a motion to strike LILCO's November 8 comments. The motion to strike is ill-taken. It fails to distinguish (Motion to Strike, ¶ 1) between the two custom-tailored 20 day briefing period followed by oral argument requested by Intervenors and the normal ten-day period provided for immediate effectiveness review comments under Section 2.764(f)(2)(ii). It also fails to distinguish between the nature of an opposition on the merits and a motion to strike (*Id.* ¶ 2). Intervenors would have done better simply to have filed their comments rather than sitting back and complaining of LILCO's timely filing.

LILCO, November 14, 1984

CERTIFICATE OF SERVICE

In the Matter of
LONG ISLAND LIGHTING COMPANY
(Shoreham Nuclear Power Station, Unit 1)
Docket No. 50-322 (OL)

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I hereby certify that copies of LILCO'S REPORT ON REMAND ISSUES PURSUANT TO LICENSING BOARD'S NOVEMBER 5, 1984 ORDER, and of LILCO'S NOTICE TO THE COMMISSION OF REPORT ON ISSUES REMANDED BY ALAB-788 AND MOTION FOR LEAVE TO FILE, were served this date upon the following by first-class mail, postage pre-paid, or by hand as indicated by one asterisk (*) or by Federal Express as indicated by two asterisks (**).

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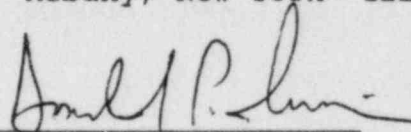
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