

ORIGINAL

UNITED STATES
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

DOCKET NO: 50-322-OL-4

LONG ISLAND LIGHTING COMPANY

(Shoreham Nuclear Power Station,
Unit No. 1)

TELEPHONE CONFERENCE

LOCATION: WASHINGTON, D. C.

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of: :

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LONG ISLAND LIGHTING COMPANY : Docket No. 50-322-OL-~~4~~

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(Shoreham Nuclear Power Station : TELEPHONE CONFERENCE

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Unit No. 1) :

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Ace-Federal Reporters, Inc.
Suite 402
444 North Capitol Street, N.W.
Washington, D. C.

Tuesday, March 5, 1985

The conference in the above-entitled matter convened
at 2:10 p.m.

BEFORE:

JUDGE JAMES L. KELLEY, Chairman
Atomic Safety and Licensing Board

JUDGE GLENN O. BRIGHT, Member
Atomic Safety and Licensing Board

JUDGE ELIZABETH B. JOHNSON, Member
Atomic Safety and Licensing Board

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1 APPEARANCES:

2 On behalf of the Applicant:

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9 On behalf of the Nuclear Regulatory Commission Staff:

10 ROBERT PERLIS, ESQ.
11 Nuclear Regulatory Commission
12 Washington, D. C.

13 On behalf of the Intervenor, Suffolk County:

14 MICHAEL S. MILLER, ESQ.
15 LAWRENCE COE LANPHER, ESQ.
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20 On behalf of the State of New York:

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22 Special Counsel to the Governor
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25 New York, New York 10047

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P R O C E E D I N G S

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2 JUDGE KELLEY: Good afternoon, gentlemen. This
3 is Judge Kelley. We set up this conference call at this
4 time, you will recall, from last Thursday, not knowing
5 then whether we would really need a call now or not. As I
6 will explain in a minute, I don't think we really need one,
7 but be that as it may, we will at least tell you where we
8 are.

9 We have received from LILCO and from the County
10 and from the Staff -- and also a letter from Mr. Palomino
11 for New York -- we received your proposals for questions
12 to be put, threshold questions, if you will. What we have
13 done is to write the Board's own set of questions, but I
14 think you will see that most, if not virtually all, of the
15 questions that we posed are in substance included in our
16 formulation.

17 What we have for you this afternoon is a
18 document called "Threshold Safeguards Questions," dated
19 today, about four pages long. We will be sending that
20 downtown for normal service in a little bit. I would
21 suggest that if you possibly can, at least those of you in
22 town, come on out here with a messenger and pick up a copy.
23 You might not get service until the day after tomorrow.
24 You can have it this afternoon. Copies will be sitting
25 out in the reception area on the table with your name on

1 and an envelope. I would suggest you do that.

2 Let me just add to that, although we have asked
3 a number of questions, it was our impression, at least,
4 that there may not be very much in the way of case law on
5 these points. There may not be any of what you could call
6 legislative history on these various regulations. We
7 realize that. We are not necessarily expecting you to
8 come in with lengthy, elaborately footnoted responses. We
9 would be perfectly happy to get a relatively brief,
10 reasoned response on each of these points. We are not
11 talking in terms of page limits, but the message I am
12 trying to send is, a brief response would be fine.

13 We have made these responses due a week from
14 today. That is to say, at close of business on Tuesday,
15 March 12. We are not requiring any replies, and I dare
16 say some of you may read your submissions and feel you
17 don't have anything else to say. That is fine. We are
18 authorizing short replies to be filed, however, by Friday,
19 March 15, close of business on that day. That then will
20 put us in a position to move ahead on developing answers
21 to these threshold questions.

22 I think that is really about all I need to say
23 at this point. I will ask the various parties if they
24 have questions they want to raise. Mr. Irwin?

25 MR. IRWIN: No, Judge Kelley, we don't.

1 JUDGE KELLEY: Did you serve, by the way, your
2 petition for review on everybody?

3 MR. IRWIN: Yes, sir, we did.

4 JUDGE KELLEY: I guess it is somewhere in the
5 pipe.

6 MR. IRWIN: I believe it came by Federal Express
7 to you and Judge Bright in Bethesda, and should have gone
8 to Judge Johnson in Oak Ridge.

9 JUDGE JOHNSON: This is your appeal to the
10 Commission?

11 MR. IRWIN: That is correct.

12 JUDGE JOHNSON: Yes, I got it. It came in this
13 morning.

14 JUDGE KELLEY: Okay.

15 Mr. Brown is with us, I think. Is Mr. Lanpher
16 with us?

17 MR. LANPHER: Yes.

18 JUDGE KELLEY: Do either of you have any comment?

19 MR. LANPHER: Perhaps there will be or there may
20 be a question raised once we see the way the Board has
21 formulated the questions. I would like to inquire whether
22 you received my letter of this morning, Judge Kelley?

23 JUDGE KELLEY: I am not sure. Hold on a second.

24 I rather think not. Can you tell me in general
25 what it is about?

1 MR. LANPHER: It was a very brief letter which
2 was telecopied around noon to all the parties which
3 expressed a concern about the so-called "moving target,"
4 the last sentence of LILCO's comments saying that they may
5 be proposing or informing parties about some new things
6 that they are doing for the gas turbine. And during the
7 hearing last Thursday, I had expressed a concern about a
8 moving target and I believe the Board had agreed that we
9 shouldn't be facing a moving target. I propose that LILCO,
10 if it was consistent with safeguards requirements,
11 indicate to everyone right now what they are planning. It
12 may affect the briefing that you all have ordered.

13 JUDGE KELLEY: I know what you are referring to.
14 Mr. Irwin, any comment on Mr. Lanpher's point?

15 MR. IRWIN: Yes, sir. Just the same comment I
16 made last Thursday, which is that we may be doing some
17 things to augment the specific factors relative to the 20-
18 megawatt turbine, but we do not intend to try to qualify
19 that piece of equipment fully under Section 73.55(b)-(h).
20 I believe that as long as we remain below that threshold,
21 the issues as we have framed them, and as I believe the
22 County and the Staff framed them, are equally available
23 for litigation, regardless of whether the equipment is 99
24 percent qualified or 50 percent qualified or 0 percent
25 qualified.

1 MR. LANPHER: Then can we just make the
2 assumption, everyone in this proceeding from here on, that
3 the gas turbine is unprotected, period, otherwise we have
4 a moving target?

5 JUDGE KELLEY: I don't understand Mr. Irwin to
6 be saying precisely that. I may be mishearing him.

7 Mr. Irwin, if you are going to, I think you used
8 the word "augment," safeguards with respect to the gas
9 turbine, one, do you know right now exactly what it is you
10 are going to do and, two, can you tell us what that is?

11 MR. IRWIN: I don't know exactly. If I did, I
12 would certainly try to tell you. But adding on to that,
13 we are talking right now with the people at LILCO and
14 expect in the quite near future, certainly within the
15 period of the brief being contemplated by the Board, to
16 have a pretty good handle on the types of further measures
17 we will take with the 20-megawatt turbine. Again, I don't
18 think that affects the nature of the issues to be briefed.

19 MR. LANPHER: We haven't seen the issues yet.

20 MR. IRWIN: I will not stipulate that the 20-
21 megawatt turbine is going to be unprotected. I guess that
22 means I will stipulate that we are not going to try to
23 meet each of the requirements of 7355(b)-(h). But we can
24 rehash last Thursday's arguments all we want. I don't
25 think that is all -- I don't have to get into the issue,

1 but it does frame one issue.

2 JUDGE KELLEY: You are saying, are you not, that
3 something short of full Part 73 compliance is what you now
4 intend to achieve with respect to the gas turbine?

5 MR. IRWIN: Something short of Part 73, Section
6 7355(b)-(h).

7 JUDGE KELLEY: All right. Put it that way.
8 Short of that?

9 MR. IRWIN: Yes, sir.

10 JUDGE KELLEY: Wouldn't you -- I would
11 anticipate, Mr. Irwin, if what you intend to do by way of
12 augmentation of safeguards protection for that gas turbine
13 is fairly significant in safeguard terms and yet you can't
14 yet say really what it is going to be, one of the effects
15 might be that the whole process just gets held up until
16 you make up your mind, right?

17 MR. IRWIN: It could be that submission of
18 direct cases ought to be held up until the parties know
19 exactly what we are doing. I think I said that last
20 Thursday. We don't expect to change the protection of the
21 EMDs in any significant way, because we believe they are
22 qualified. On the 20-megawatt turbine there may well be
23 some changes that I think could affect the timing of the
24 submission of the direct case.

25 JUDGE KELLEY: It might even affect submission

1 of contentions?

2 MR. IRWIN: Yes, sir, it could.

3 JUDGE KELLEY: If you are going to do something
4 to these gas turbines that you think is significant, but I
5 don't even know what it is, I can hardly advance a
6 contention on it, can I?

7 MR. IRWIN: I am not going to disagree with you
8 on that. All I am saying is I think in terms of
9 addressing the legal issue which is --

10 JUDGE KELLEY: I understand that part. I think
11 the questions that we are putting out speak to that. I
12 would just say though that Mr. Lanpher, it seems to me
13 that to the extent there are are things forthcoming for
14 the gas turbine that aren't spelled out yet, I wouldn't
15 call it a moving target. It is sort of a target that
16 hasn't yet appeared.

17 MR. LANPHER: My concern is as I read LILCO's
18 framing of the issues, they seem to think that there is
19 some sort of alternative standard under 7355(b)-(h), and I
20 just hate to waste the time of going through briefing of a
21 threshold issue on some assumed facts and then see that
22 those assumed facts get changed. This is really our only
23 concern here.

24 JUDGE KELLEY: I think you are going to have to
25 wait and see what these questions -- I am not going to

1 read four pages to you this afternoon, you can come out
2 and pick it up. We think these questions can be breached
3 now in a worthwhile way, assuming that the present size
4 parameters of what LILCO may propose for the turbines is
5 not yet known, so we would be waiting to hear further
6 comment once you get this in your hand. If you just don't
7 think you can do anything useful for us at this point, let
8 us know and perhaps we can talk about it on the phone. It
9 is our view that we can move ahead usefully with what we
10 do know.

11 MR. LANPHER: Fine. If we see some new
12 information, however, in LILCO's brief that is due next
13 Tuesday, we will certainly anticipate that we get a little
14 extra time to reply, if it comes out then and it proves to
15 be material?

16 JUDGE KELLEY: We can take that into
17 consideration and discuss it. I would say let's not now
18 set yet another phone conference. Let's see if that
19 happens. You can call me up if you think it has happened.

20 MR. LANPHER: We will look at LILCO's brief.

21 JUDGE KELLEY: Staff.

22 MR. PERLIS: Just one question. I have most of
23 the documents that the Board has been talking about. We
24 got Mr. Lanpher's letter this morning. We did not get
25 anything from the State. It was my understanding that the

1 State was joining in the County submission. Did the State
2 file a separate letter?

3 MR. PALOMINO: No.

4 JUDGE KELLEY: I am sure there is a reference to
5 the State agreeing with the County, essentially, in what
6 the County filed.

7 MR. PALOMINO: That was my understanding. I
8 just didn't have anything separate. I thought the Board
9 mentioned earlier that there was. If there is not, we
10 have everything and we will wait to see what the Board has
11 ordered.

12 JUDGE KELLEY: Okay.

13 Judge Johnson, anything else that we ought to
14 raise at this point?

15 JUDGE JOHNSON: The only thing I would be
16 inclined to raise at this point is that I did not yet get
17 Mr. Lanpher's letter as of this morning.

18 MR. LANPHER: It was telecopied to you. I will
19 make sure you get it.

20 JUDGE JOHNSON: It may have come in in the last
21 couple of hours.

22 MR. LANPHER: It was telecopied approximately at
23 noon.

24 JUDGE JOHNSON: I just don't have it in my hands
25 at this point.

1 JUDGE KELLEY: Anything else? Okay. Anybody
2 have anything else to add before we hang up? Again, you
3 can pick up these copies of the Board's order setting
4 forth these questions as soon as you can send a messenger
5 out to get it. Okay, thanks very much. We undoubtedly
6 will be talking to you again soon.

7 (Whereupon, at 2:25 p.m., the telephone
8 conference was concluded.)

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CERTIFICATE OF OFFICIAL REPORTER

This is to certify that the attached proceedings before the UNITED STATES NUCLEAR REGULATORY COMMISSION in the matter of:

NAME OF PROCEEDING: LONG ISLAND LIGHTING COMPANY

(Shoreham Nuclear Power Station,
Unit No. 1)

TELEPHONE CONFERENCE

DOCKET NO.: 50-322-OL-5

PLACE: WASHINGTON, D. C.

DATE: TUESDAY, MARCH 5, 1985

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission.

(sig) Rebecca E. Eyster
(TYPED)

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