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March 28, 1985

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BY HAND

George Jett, Esquire
General Counsel
Federal Emergency Management
Agency
Washington, D.C. 20472

ACCOUNT NUMBER 50-323 CL
MAN & UTIL FAC....

Dear Mr. Jett:

This is in furtherance of my letter to you dated March 15, 1985, restating Suffolk County's objection to involvement by FEMA in any activity that directly or indirectly relates to an exercise or "tabletop exercise" of LILCO's proposed offsite emergency plan for the Shoreham nuclear power plant. Please note that the second-to-last sentence of my March 15 letter inadvertently refers to LILCO's plan as "FEMA's." For the record, therefore, a copy of the letter with the correction is enclosed.

Moreover, in a letter to the NRC dated February 8, 1985, LILCO requested the NRC's help "in creating an opportunity for cognizant LILCO personnel to meet at the earliest possible date with their FEMA counterparts for a technical meeting on offsite matters including the possibility of a table top exercise. . . ." For several reasons, there is no legitimate basis for such a "meeting" of FEMA with LILCO. First, the subject matter proposed by LILCO for the meeting is LILCO's implementation of its offsite emergency plan. On February 20, 1985, the New York State Supreme Court held that LILCO's implementation of its plan is unlawful. Therefore, it would be out of order for FEMA to meet with LILCO to discuss the commission of this unlawful act.

Second, President Reagan stated in October 1984 that his Administration "does not favor the imposition of Federal government authority over the objections of State and local governments regarding the adequacy of an emergency evacuation plan for a nuclear power plant such as Shoreham." New York State and Suffolk County object to any form of exercise of LILCO's offsite emergency plan. Thus, for FEMA to act in furtherance of such an exercise would be to repudiate the President's position.

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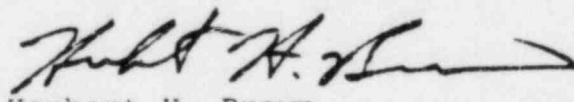
KIRKPATRICK & LOCKHART

George Jett, Esq.
March 28, 1985
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Finally, FEMA holds a special position in the NRC's adjudicatory process as a purportedly objective evaluator of facts and issues that have great public safety significance. It would create a distasteful impression for FEMA to meet privately with LILCO on any subject which aids LILCO's pursuits before the NRC.

The past two months have seen a proliferation of letters from LILCO asking for what amounts to nothing but a favor from FEMA. It is clear that LILCO wants from FEMA any kind of forum -- an "exercise," or "tabletop exercise," or just a meeting to discuss "the possibility of a tabletop exercise" -- for an undisclosed purpose that suits LILCO's private goals. FEMA, however, is not at liberty to abet LILCO's private goals. FEMA is duty-bound to serve the public good and, particularly, to obey the law. Fostering LILCO's proposed exercise would not be lawful. Therefore, we request that FEMA state with finality that it will not agree to LILCO's "technical meeting on offsite matters including the possibility of a table top exercise" or any other discussion of subject matters which are contrary to law.

Sincerely,



Herbert H. Brown

HHB:so
Enclosure
cc: Mr. John C. Gallagher, Chief
Deputy Suffolk County Executive
Mr. Richard Krimm
Service List

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CORRECTED VERSION
March 28, 1985

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March 15, 1985

George Jett, Esq.
General Counsel
Federal Emergency Management Agency
500 C Street, S.W., Room 840
Washington, D.C. 20472

Dear Mr. Jett:

On February 20, 1985, the New York State Supreme Court ruled that the Long Island Lighting Company (LILCO) does not have authority under the Constitution and laws of the State of New York to implement the company's proposed off-site radiological emergency plan for the Shoreham nuclear power plant. A copy of this decision is enclosed.

Given that LILCO's implementation of its plan is unlawful, Suffolk County would consider any action of FEMA that fosters or approves an exercise of LILCO's plan to be the furtherance of an unlawful objective. Accordingly, the County would object to FEMA observing or in any other way participating in, witnessing, or lending support or credibility to any form of exercise of ~~XXMXX~~ LILCO's plan. In this regard, enclosed is a letter from the Chief Deputy Suffolk County Executive to the NRC.

Sincerely,



Herbert H. Brown

cc: John C. Gallagher
Chief Deputy Suffolk County Executive

NRC Service List

Attachments (2)