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LILCO, January 27, 1988

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NUCLEAR REGULATORY COMMISSION

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Before the Atomic Safety and Licensing Board

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)	
)	
LONG ISLAND LIGHTING COMPANY)	Docket No. 50-322-OL-3
)	(Emergency Planning)
(Shoreham Nuclear Power Station,)	(EBS Issue)
Unit 1))	

LILCO'S OBJECTIONS TO INTERVENORS' "EMERGENCY
PLANNING CONTENTION RELATING TO LILCO'S
NEW EMERGENCY BROADCAST SYSTEM PROPOSAL"

On January 12, 1988, Intervenor's filed their "Emergency Planning Contention Relating to LILCO's New Emergency Broadcast System Proposal" (Contention).^{1/} Although styled as a single contention, Intervenor's 10-page filing actually consists of a preamble followed by four contentions with nine subparts. These contentions purport to address "LILCO's new provisions" for radio transmission of EBS messages and activation of tone alert radios. Contention at 1. For the reasons set forth below, LILCO objects to the admission of these contentions.

I. Background

The Shoreham EBS continues to be an open issue only because the record was re-opened as a result of WALK Radio's withdrawal from the system. LILCO originally relied upon WALK-FM and -AM to trigger a Shoreham-only EBS, which then consisted of WALK and 11 other local radio stations. See Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-85-12, 21 NRC 644 at 764 (1985) ("PID"). WALK was

^{1/} The service certificate attached to Intervenor's contentions states that the contentions were served by mail on January 12, 1988. However, LILCO did not in fact receive them until January 19.

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to broadcast EBS messages upon receipt of a phone call from LERO (or the State or County) giving an authentication number. In addition to broadcasting the messages itself, WALK's signal would automatically alert the broadcasting facilities of the 11 other radio stations, which would in turn broadcast the same messages simultaneously over their own frequencies or tape the messages for later broadcast. *Id.* WALK's signal would also activate tone alert radios that LILCO had provided to special facilities such as schools, hospitals, nursing homes, handicapped facilities and large employers, to provide those facilities with a third means of notification of a Shoreham emergency (in addition to sirens and LERO phone calls). PID at 759-60.

Intervenors filed only two contentions challenging the WALK-led EBS. Contention EP 20 alleged that since LILCO relied on WALK-FM and -AM to broadcast EBS messages, and WALK-AM did not normally operate at night, persons without FM radios would be unable to hear the messages at night. PID at 763. Contention EP 57 alleged that the tone alert system was faulty for the same reason, *i.e.*, that the tone alert radios could not be activated by WALK-AM at night. *Id.* at 759-60. The Board decided both contentions in LILCO's favor, finding that WALK-AM and the other participating stations were all prepared to broadcast EBS messages (and, in WALK's case, activate tone alert radios) at any time, day or night. *Id.* at 760, 764.^{2/} The Board dismissed several issues raised for the first time by Intervenors in their proposed findings, namely, WALK's range of coverage, the need for station management to approve nighttime broadcasting, and technicalities concerning applicable FCC regulations. *Id.* Intervenors did not challenge these findings before the Appeal Board.

^{2/} As the Board noted, Contention EP 57 missed the mark because it mentioned WALK-AM as the station that would trigger the tone alerts, when in fact WALK-FM would trigger them. PID at 760 n.2.

WALK Radio withdrew from the Shoreham EBS on September 16, 1986.^{3/} Upon motion by the Intervenors, the Commission reopened the EBS issue with instructions to the Licensing Board to admit "new" contentions "only to the extent they assist in focusing further the litigation on earlier-admitted issues, and only after LILCO provides updated information on public notification procedures." CLI-87-05, 25 NRC _____ (June 11, 1987), slip op. at 10.

LILCO provided the "updated information" on its EBS on November 6, 1987, and moved this Board to grant summary disposition. See LILCO's Motion for Summary Disposition of the WALK Radio Issue, November 6, 1987. The Board denied LILCO's motion as premature, without addressing in detail the merits of the motion or the technical documents attached in support. Memorandum and Order (Ruling on Applicant's Motion of November 6, 1987 for Summary Disposition of the WALK Radio Issue), December 21, 1987. However, the Board permitted Intervenors to file new contentions only "on a limited basis," explaining as follows:

The issues concerning public notification procedures that were previously litigated in this proceeding concerned the adequacy of the emergency plan's provision for radio transmission of EBS messages and activation of tone alert radios. Any new contentions must focus on these issues as they are impacted by LILCO's new arrangements for conducting emergency notifications.

Id. at 5.

Consistent with the Board's Dec. 21 Memorandum and Order, then, Intervenors' contentions are admissible only to the extent they address the impact of the substitution of WPLR for WALK on the adequacy of LILCO's arrangements for radio transmission of EBS messages and activation of tone alert radios. In addition, however, it is

^{3/} The history of WALK's withdrawal and the subsequent reopening of the record are set out more fully in LILCO's November 6, 1987 Motion for Summary Disposition of the WALK Radio Issue.

LILCO's position that to be admissible, the contentions must raise issues that are specific to the new radio stations. That is, contentions that raise generic issues that intervenors could have raised earlier (in connection with WALK) but did not, should not be admitted now. See CLI-87-05, slip op. at 10. Only contentions that address relevant system changes and their effect on compliance with NRC regulations, and that raise issues that (1) were in fact litigated earlier or (2) could not have been litigated earlier should be admitted in this reopened proceeding.

II. Admissibility Standards

Intervenors must set forth the bases of proffered contentions with "reasonable specificity." 10 C.F.R. § 2.714(b). The purposes of this requirement are as follows:

1. to help assure that the hearing process is not improperly invoked, for example, to attack statutory requirements or regulations;
2. to help assure that other parties are sufficiently put on notice so that they will know at least generally what they will have to defend against or oppose;
3. to assure that the proposed issues are proper for adjudication in the particular proceeding -- i.e., generalized views of what applicable policies ought to be are not proper for adjudication;
4. to assure that the contentions apply to the facility at bar; and
5. to assure that there has been sufficient foundation assigned for the contentions to warrant further exploration.

GPU Nuclear Corporation (Three Mile Island Nuclear Station, Unit No.1), LBP-86-10, 23 NRC 283 at 285 (1986), citing Philadelphia Electric Co. (Peach Bottom Atomic Power Station, Units 2 and 3), ALAB-216, 8 AEC 13, 20-21 (1974).

In deciding whether these criteria are met, a licensing board does not consider whether the proposed contentions have merit. Alabama Power Co. (Joseph M. Farley Nuclear Plant, Units 1 and 2), ALAB-183, 7 AEC 210, 216 (1974). The regulations do not

require intervenors to detail the evidence that will be offered to support the contentions. Mississippi Power & Light Co. (Grand Gulf Nuclear Station, Units 1 and 2), ALAB-130, 6 AEC 423, 426 (1973). However, intervenors are required to give a "reasonable explanation or plausible authority" for factual assertions. Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Units 1 and 2), LBP-81-24, 14 NRC 175, 184 (1981); they must "assign reasons for [their] belief." See Houston Lighting and Power Co. (Allen's Creek Nuclear Generating Station, Unit 1), ALAB-590, 11 NRC 542, 548 (1980). This means that an intervenor cannot simply make bare allegations that the emergency plan is deficient; he is obliged to supply some cognizable support for his charges, by either citing or providing to the board and other parties the documents on which the contention(s) are based. See Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), ALAB-804, 21 NRC 587 at 593-94 (1985).

Finally, the specific bases for a contention must be provided in the contention itself, and cannot be left to later development. Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), ALAB-845, 24 NRC 220, 235, 241 n. 24 (1986). Commission regulations "do not allow the filing of vague, unparticularized contentions, to be followed by an attempt to flesh them out through discovery of Applicant or Staff." Carolina Power & Light Co. (H.B. Robinson Steam Electric Plant, Unit 2), Docket No. 50-261-OLA (April 12, 1983)(unpublished), citing Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), ALAB-687, 16 NRC 460 (1982). This is especially true where, as here, the contentions are drawn by counsel experienced in NRC practice. Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), LBP-86-21, 23 NRC 849 at 852 (1986).

III. Legal Standards for EBS Systems

A pervasive deficiency in the new contentions is that, even if accepted as true, they do not show a failure to meet NRC regulations. Indeed, though Intervenors have cited the regulations, they have ignored their substance.

To meet NRC regulations LILCO need only show "means to provide early notification and clear instructions to the populace within the plume exposure pathway Emergency Planning Zone." 10 C.F.R. § 50.47(b)(5). This means "administrative and physical means." 10 C.F.R. Part 50, Appendix E § IV.D.3.^{4/}

In their contentions Intervenors raise numerous spurious issues that have no basis whatsoever in these NRC regulations. Their contentions have been drafted to standards of their own making, not to NRC regulations. For example, they claim that the EBS station or system must "be generally known and listened to by the public" (Contention

^{4/} Guidance for satisfying these requirements is provided in NUREG-0654, Supp. 1, § II.E.5 and 6, in Appendix 3 thereto, and in FEMA-REP-10, Guide for the Evaluation of Alert and Notification Systems for Nuclear Power Plants, Chapter 1 (November 1985). NUREG-0654 §§ II.E.5 and E.6 state as follows:

5. The offsite response organization shall establish a system for disseminating to the public appropriate information contained in initial and followup messages received from the licensee including the appropriate notification to appropriate broadcast media, e.g., the Emergency Broadcast System (EBS).

6. The offsite response organization shall establish administrative and physical means, and the time required for notifying and providing prompt instructions to the public within the plume exposure pathway Emergency Planning Zone. The offsite response organization shall have the administrative and physical means to activate the system.

NUREG-0654, Supp. 1, "Criteria for Utility Offsite Planning and Preparedness Draft Report for Interim Use and Comment," at 11 (Nov. 1987). The only substantive criteria that FEMA-REP-10 adds are that the transmission signal of the broadcast station must be of adequate strength in the coverage area (the 10-mile EPZ) and that "capability exists to broadcast official information 24 hours a day, 7 days a week." FEMA-REP-10, Chap. 1, at E.1-6.

1.D and 2.B); that it must be "credible" and "authoritative" (Contention 1.E and 2.B); that it must provide coverage to areas beyond the 10-mile EPZ, including the entire 50-mile ingestion pathway (Contention 1.A, 1.B, 1.E, 2.A, 2.B, 2.C, and 3); and that it must have the capability for 24 hour AM and FM coverage (Contention 1.C, 2.A, and 3). None of these ideas can be found in the regulations; none can be found in the guidelines of NUREG-0654. The Intervenor's contentions, therefore, are simply not relevant to what the regulations require, which is that LILCO has a means to provide 24 hour notification and instruction to the public in the 10-mile EPZ. The Board should not permit Intervenor's to expand the scope of that limited inquiry.

IV. LILCO's Objections

LILCO's objections to the EBS contentions fall into 5 general categories, which can be summarized as follows:

Relevance. Specified portions of the contentions are irrelevant to whether LILCO's EBS arrangements satisfy NRC requirements. Within this category, there are two specific ways in which most of Intervenor's contentions are irrelevant:

- a. WALK Comparisons. Throughout their contentions, Intervenor's attempt to hold WPLR to certain alleged WALK standards or characteristics. Such comparisons are not relevant to whether LILCO's current EBS satisfies NRC regulations.^{5/}
- b. Outside EPZ. Intervenor's also attempt to hold LILCO to a coverage standard not founded in the regulations. As

^{5/} Intervenor's sing the praises of WALK radio in their contentions, describing it as "Long Island's most powerful radio station, the one most listened to, and the one most regularly relied upon for local and emergency information," and concluding that "WALK has a high degree of visibility, credibility and familiarity to Long Island residents." Contentions at 4. It is ironic that the station Intervenor's opposed vigorously in litigation has now become the yardstick by which they would have the Board measure others.

discussed above, the regulations require only that LILCO show broadcast coverage within the 10-mile EPZ, not beyond. 10 C.F.R. § 50.47(b)(5) and Part 50, App. E.IV.D.3.

Basis. The contention either lacks factual basis in that it fails to give "a reasonable explanation or plausible authority" for its assertions, or the contention lacks legal basis in that it challenges NRC regulations or there is no regulatory requirement for that which the contention alleges is lacking or deficient.

Specificity. The contention is not sufficiently precise to fairly apprise the other parties of what Intervenors seek to litigate.

Reopens Old Issues. The Intervenors raise an issue that was litigated conclusively or that could have been litigated in the WALK hearing but was not.

Redundant. The contention repeats other contentions.

LILCO sets out a subpart-by-subpart analysis of the contentions below.

Contention 1 (preamble and legal citations)

Paragraph 1 of the contention states that "the Plan fails to comply with 10 C.F.R. §§ 50.47(a)(1), (b)(5) and (b)(6), 10 C.F.R. Part 50, Appendix E §§ IV.D.2 and 3, NUREG-0654 §§ II.E.5 and E.6, and Appendix 3 thereto, and FEMA-REP-10."

Intervenors' reference to 10 C.F.R. Part 50, Appendix E.IV.D.2 is inapposite here. That section refers only to the public information brochure that is disseminated yearly to the public. The brochure is not at issue in this proceeding. Moreover, 10 C.F.R. § 50.47 (b)(6)^{6/} goes to communications among emergency response organizations and personnel and therefore is not directly relevant to "radio transmission of EBS messages and activation of tone alert radios." See NUREG-0654 § II.F (Evaluation

^{6/} 10 C.F.R. § 50.47 (b)(6) requires that "provisions exist for prompt communications among principal response organizations to emergency personnel and to the public."

criteria do not mention communications to the public). Finally, although 10 C.F.R. § 50.47(a)(1) is generally applicable to the extent the Board must decide whether the LILCO Plan provides the requisite "reasonable assurance," it is not helpful in determining the adequacy of LILCO's EBS arrangements.

Contention 1.A (WPLR's broadcast signal is too weak)

Basis. Contention 1.A is objectionable in its entirety because Intervenor's fail to state any support for the allegation that "WPLR's broadcast signal is too weak to convey a strong and clear broadcast message throughout the EPZ and surrounding areas." In fact, there is no basis for this statement, as shown in attachments 5 and 6 to LILCO's summary disposition motion on the WALK Radio issue. As shown in those sworn studies, which Intervenor's did not attempt to dispute, WPLR provides full coverage to the 10-mile EPZ.

Basis; WALK Comparison. Intervenor's comparison of the power levels of WPLR and WALK in the second and third sentences is irrelevant. Moreover, Intervenor's do not provide any basis for their purported connection between WPLR's power rating and the assertion that WPLR's signal is too weak. In fact, there is no direct connection. WPLR and WALK are both Class B facilities under FCC regulations, meaning that they are equivalent facilities. This is because power ratings are offset by antenna heights, and WPLR has a higher transmitting antenna than does WALK. Thus, the contention's bare comparison of broadcasting power is meaningless.

Outside EPZ. LILCO objects specifically to the inclusion of the phrase "and surrounding areas" to the contention because that phrase constitutes a challenge to the regulations. The Commission's regulations require only a "means to provide early notification and clear instruction to the populace within the plume exposure pathway," not beyond. No NRC regulation requires a capability for broadcast coverage of "surrounding areas."

Contention 1.B (Long Island geography exacerbates weak signal)

Basis. Contention 1.B is objectionable in its entirety because Intervenors do not state any support for their allegations that the Long Island geography "exacerbates the weakness of WPLR's broadcast signal," or that "the hilly landscape of the north shore . . . diminish[es] the quality of reception of WPLR's signal." In fact, there is no basis. As shown in the sworn engineering studies that are attachments 5 and 6 to LILCO's summary disposition motion, which Intervenors did not attempt to dispute, WPLR provides full broadcast coverage to the entire EPZ.

Outside EPZ. LILCO objects specifically to the inclusion of the phrase "and around" the EPZ because, for the reasons stated in LILCO's response to Contention 1.A, there is no legal requirement for EBS broadcast coverage beyond, or "around," the 10-mile EPZ.

Contention 1.C (WPLR has no AM broadcasting ability)

Basis. Contention 1.C lacks basis for two reasons. First, no NRC regulation or guidance document requires 24 hour-a-day AM and FM coverage. Appendix 3 to NUREG-0654 states that an emergency plan should include "a capability for 24-hour per day alerting and notification." NUREG-0654, App. 3 at 3-1. Likewise, FEMA-REP-10 says that EBS stations and systems should be selected such that a "capability exists to broadcast official information 24 hours a day, 7 days a week." FEMA-REP-10 at E-2 (Nov. 1985). Therefore, the fact that WPLR is an FM station says nothing about whether LILCO's arrangements show "a capability to issue warning messages on a 24-hour basis."

Second, Intervenors fail to mention in Contention 1.C anything about the seven AM radio stations in the Shoreham EBS, although they refer to them in other contentions. Thus, the fact that WPLR has no AM broadcasting capability does not prove that "LILCO fails to comply with the requirement that there be a capability to issue warning messages on a 24-hour basis", since there are seven stations that provide AM coverage.

WALK Comparison. The second sentence of Contention 1.C, stating that WALK could broadcast on AM by flipping a switch, is irrelevant to whether WPLR satisfies NRC regulations.

Contention 1.D (WPLR has low Long Island listenership)

Basis. Contention 1.D lacks any basis in NRC regulations. Title 10 C.F.R. § 50.47(b)(5) requires only a "means" to provide early notification and clear instruction to the populace in the 10-mile EPZ. Neither that section nor any other requires a licensee to show that its EBS station(s) is the most popular or most listened-to in the 10-mile area. See NUREG-0654, App. 3 at 3-13 ("The Emergency Broadcast System exists to furnish an expedited means of furnishing real time communications to the public in the event of war, threat of war, or grave national, or regional or local crisis.")

Relevance. "Listenership" is not relevant to an EBS station's adequacy. This is especially true given the fact, acknowledged in the PID, that the public will be told beforehand which radio stations comprise the Shoreham EBS and thus which stations they should turn to during an emergency. As the Board found, several components of LILCO's public information program, including the brochure, refrigerator magnets, glove box stickers, and stickers in commercial establishments, will identify the EBS stations. See PID at 765-66.

WALK Comparison. The last sentence of Contention 1.D, concerning WALK's listenership rate, is irrelevant.

Contention 1.E (EBS station must be authoritative, credible, reliable, accurate)

Basis. Contention 1.E lacks basis for the same reasons 1.D does. Intervenors have not given a "reasonable explanation or plausible authority" for the contention. They have provided no support for their opinion that "an EBS station must also be perceived by the public as one likely and able to broadcast authoritative, accurate, reliable and credible information," and their opinion is not grounded in NRC requirements. It is

true that Intervenor have given reasons (i)-(iii) for their assertion that WPI.R would not be deemed "credible, authoritative, accurate, or reliable." But Intervenor have not given any basis for the underlying premise -- that any EBS station itself "must be perceived by the public as one likely and able to broadcast authoritative, accurate, reliable and credible information."

Relevance. There is no legal requirement that LILCO choose an EBS station that is "perceived by the public as one likely and able to broadcast authoritative, accurate reliable and credible information." NRC regulations require only that LILCO show that its plan includes "means to provide early notification and clear instruction to the populace within the plume exposure pathway Emergency Planning Zone." 10 C.F.R. § 50.47(b)(5). Intervenor are attempting to read into the regulations additional requirements that the NRC (and FEMA, in its guidance documents) have never established.^{7/}

Outside EPZ. As a separate matter, the phrase "and around" (referring to people outside the EPZ) on page 4 of the contentions must be excluded as imposing requirements beyond those of the regulations, which require only the provision of notification and clear instruction to people within the 10-mile EPZ.

WALK Comparison. The last two sentences of Contention 1.E and their accompanying footnote 3 are inadmissible because WALK's characteristics, and the agreement between LILCO and WALK, are irrelevant.

Reopens Old Issues. Contention 1.E again attempts to raise the issue of the credibility and reliability of emergency information and instructions broadcast by LILCO's EBS station. But the credibility of LILCO and its EBS messages was fully

^{7/} The pre-emergency market position of a station is not a criterion for an EBS station. The only relevant criterion is its technical capacity to broadcast information during an emergency.

litigated in the Plan hearings, PID at 687-98, and the credibility of LILCO's EBS messages was again litigated under the auspices of Contentions EX 38 and 39 in the Exercise (OL-5) proceeding. A decision on the Exercise issues is still pending. Intervenors now try to raise the issue of the credibility of the radio station itself, for which there is no NRC requirement. This is nothing more than the same credibility package in different wrapping. The Board should exclude it.

Contention 1.F (WPLR not a local station)

Basis. Contention 1.F is devoid of legal foundation. It purports to say that LILCO's reliance on a Connecticut radio station as the lead EBS station violates NRC regulations, citing 10 C.F.R. Part 50, Appendix E.IV.D.2. But nowhere in the cited provision has the NRC proscribed the location of participating EBS stations, or proscribed out-of-state stations from serving as EBS stations for another state. All Appendix E.IV.D.2 says is that the public information brochure should list "local broadcast stations that will be used for dissemination of information during an emergency." The regulations do not define the term "local," nor do they even require the lead EBS station to be a "local" station.^{8/} Thus, there is no legal basis for the claim that WPLR is not a local station, or that WPLR's inclusion in the Shoreham EBS is inconsistent with NRC regulations.^{9/}

Contention 2.A (EBS has gaps in nighttime AM coverage)

^{8/} Indeed, the lead station (CPCS-1) for the State EBS for Long Island is WCBS, which is located in New York City, approximately 70 miles from Shoreham. In addition, as Intervenors know full well from information obtained from FEMA, the EBS gateway stations and some other stations affiliated with the EBS network for the Artificial Island (Salem) plant in New Jersey (also in FEMA Region 2) are in Delaware. Those stations have not been excluded as "non-local" stations.

^{9/} Even if the Board were to determine that Contention 1.F is admissible, the issue raised is a legal, not a factual one, and it should be addressed in legal briefs, not evidentiary hearings.

Basis. LILCO objects to Contention 2.A for the same reason it objected to Contention 1.C, i.e., the contention lacks legal foundation. No NRC regulation requires a licensee to show a capacity for 24 hour-a-day AM and FM coverage of the 10-mile EPZ. All that is required is "a capacity for 24 hour per day alerting and notification." NUREG-0654, App. 3 at 3-1; FEMA-REP-10 at E-2. LILCO submits that WPLR by itself has this capacity, as shown in the supporting documents attached to LILCO's summary disposition motion.

Outside EPZ. LILCO objects specifically to the inclusion of the phrase "and around" in the fourth sentence of Contention 2.A. The phrase "and around" raises the issue of broadcast reception outside the 10-mile EPZ and thus goes beyond regulatory requirements, which require only a means to provide notification and clear instruction to people inside the EPZ.

WALK Comparison; Reopens Old Issues. The last sentence of Contention 2.A is not relevant. The only inquiry here is whether WPLR satisfies NRC regulations. Thus, the regulations are the proper guidepost, not the capabilities of WALK.

Contention 2.B (EBS has low listenership; is not credible, authoritative, etc.)

Basis;Relevance. Contention 2.B lacks legal basis because there is no NRC regulation or guidance document which imposes any listenership criteria for EBS stations, much less that EBS stations should be the ones with the highest ratings. All the regulations require is that LILCO show a "means to provide early notification and clear instruction to the populace within the plume exposure pathway Emergency Planning Zone." 10 C.F.R. § 50.47(b)(5); Part 50, App. E.IV.D.3. The popularity, listenership, credibility, authoritativeness, and rating of EBS stations are spurious issues with no relevance to or underpinnings in NRC requirements.

Reopens Old Issues. LILCO also objects to Contention 2.B in that it attempts to litigate, for the third time, the credibility of emergency information or instructions. See LILCO's objection to Contention 1.E.

WALK Comparison. Intervenors' comparison (in the second, fourth, and fifth sentences) of the current EBS stations with stations no longer in the system is not relevant to whether the current system satisfies the regulations.

Contention 2.C (EBS does not cover ingestion pathway)

Basis;Outside EPZ. Contention 2.C says that the Shoreham EBS is inadequate to broadcast information to people in the 50-mile ingestion pathway to the west of the 10-mile EPZ. This claim is nothing but a challenge to the regulations. As noted previously, the applicable NRC requirement is that LILCO show a "means to provide early notification and clear instruction to the populace within the same exposure pathway EPZ." 10 C.F.R. § 50.47(b)(5)(emphasis added); Part 50, App. E.IV.D.3.

Moreover, the legal citations in Contention 2.C do not support Intervenors' claim. Section 50.47(b)(10) requires that

Guidelines for the choice of protective actions during an emergency, consistent with Federal guidance, are developed and in place, and protective actions for the ingestion exposure pathway EPZ appropriate to the locale have been developed.

This section imposes no requirements on the EBS system; it only requires that protective actions for the ingestion pathway be "developed" in advance of an emergency. Nothing in NUREG-0654 § II.J.11 suggests anything else. Clearly, its thrust is that the offsite response organization must specify protective actions for the ingestion pathway, not EBS coverage.

Reopens Old Issues. The last sentence on pp. 7-8 is objectionable because it is simply a gratuitous attempt to relitigate whether LILCO can "control the content and flow of emergency information and EBS messages." That precise matter was squarely at issue in the Exercise (OL-3) hearings on Contentions EX 38 and 39. A copy of those contentions is Attachment 1 to this pleading. A decision by the Frye licensing Board on that and other Exercise issues is pending.

Contention 3 (shadow phenomenon from inside and outside EPZ)

Reopens Old Issues. Contention 3 should be rejected in its entirety because it attempts to relitigate "shadow phenomenon," this time in the context of EBS coverage. The attention, time, and resources devoted to the "shadow phenomenon" issue in this proceeding can only be described as excessive. Testimony on the "shadow phenomenon" was filed by both LILCO and Suffolk County in the onsite ("Phase I") portion of this proceeding in 1982. In 1983 and 1984 testimony on the "shadow phenomenon" was filed again, and this time heard, under Contention 23. At that time the Intervenor claimed that fear of radiation would cause a large "shadow phenomenon." They also alleged, in connection with Contentions 23 and 15, that LILCO's lack of "credibility" would affect the "shadow." These issues were fully litigated. See PID, 21 NRC 655-71, 687-701 (1985). At the same time, the Intervenor claimed, in Contention 22, that the "shadow phenomenon" required an expansion of the plume EPZ, a claim that was only recently put to rest by the Commission. CLI-87-12, slip op. at 5-17 (Nov. 5, 1987).

Last spring the Intervenor was again allowed to litigate their "shadow phenomenon" claims in the Exercise proceeding (Contentions EX 22.F, 40.C, 44 and 49.C). Last summer, in the proceeding about the adequacy of the reception centers for the public, the "shadow phenomenon" was litigated yet again; this time the Intervenor claimed that the location of the reception centers would affect the "shadow." All the evidence that the Intervenor wanted to present, including that which was clearly redundant of earlier testimony, was heard by the Board. See, e.g., Suffolk County Exhibit 15 (Direct Testimony of James H. Johnson, Jr. and Susan C. Saegert on Behalf of Suffolk County Concerning LILCO's Reception Centers (Evacuation Shadow Phenomenon and Traffic Issues), admitted at Tr. 17,998.

Now, again, the Intervenor attempts to raise the "shadow phenomenon" issue, which has been heard so many times before. The Board should reject this attempt.

Outside EPZ. LILCO objects to Contention 3 because it lacks legal basis. The first full paragraph of Contention 3 complains about an alleged lack of "nighttime EBS coverage west of the EPZ." Contentions at 8. As noted previously, however, NRC regulations require only that LILCO demonstrate a means to broadcast emergency information within the plume exposure EPZ. 10 C.F.R. § 50.47(b)(5) and App. E.IV.D.3; see NUREG-0654, App. 3 at 3-3.

Basis. If the Board decides over LILCO's objection to admit this shadow phenomenon contention, it is LILCO's position that only consideration of shadow originating from within the EPZ is proper. That issue is raised in the first full paragraph on p. 9 of the Contentions. Only factor (1) in that paragraph (alleging gaps in EBS coverage) should be admitted as a litigable basis. Factor (2) is not admissible because, for the reasons stated in LILCO's response to Contentions 1.E, F, and 2.B, the "credibility and authoritativeness attaching to emergency broadcast information originating largely from a non-local, out-of-state EBS station" has no basis and is not relevant to this proceeding. In addition, factor (2) lacks basis because it ignores the seven AM stations in the Shoreham EBS that would also broadcast EBS messages. Therefore, the information would not "originate largely" from an out-of-state station.

Factor (3), concerning "the unavailability of emergency information from familiar local stations," is not an adequate basis for several reasons. First, Intervenor's do not say why, or give "plausible authority" for their premise that emergency information would be unavailable from other stations. Second, Intervenor's do not say specifically what "familiar local stations" they are referring to and why information would be expected from them. Third, it is irrelevant to meeting the NRC regulations whether people receive emergency information over "familiar" radio stations. Finally, Intervenor's give no "reasonable explanation or plausible authority" for their claim that shadow would result if emergency information were not broadcast over "familiar" stations.

Factor (4) is an inadequate basis because there is absolutely no reason or support -- at least Intervenor's fail to cite any -- for the claim that there would be a "substantial likelihood of distorted and . . . conflicting emergency information" as a result of the present EBS configuration.

Contention 4 (informal alerting systems inadequate)

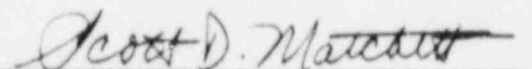
Basis. LILCO objects to Contention 4 because it lacks any factual basis. In fact, the contention mischaracterizes and misapprehends the role of informal alerting in the notification process. LILCO has not created "informal alerting systems" as part of a "proposal" for providing alerting, notification, and essential emergency information" to the public. Informal alerting is simply a phenomenon whose occurrence at least one Licensing Board --and the Appeal Board -- have recognized as helpful in alerting the public of an emergency. See Carolina Power & Light Co. (Shearon Harris Nuclear Power Plant), 1BP-86-11, 23 NRC 294, 388-89, aff'd, ALAB-852, 24 NRC 532(1986). The Shearon Harris board found it reasonable to assume that 50% of the alerted households would engage in informal or secondary notification. Id., 23 NRC at 389.^{10/} Thus, LILCO does not rely to any degree on any special "informal alerting systems" to provide prompt notification throughout the EPZ. Rather, LILCO believes that informal alerting may help to spread notification of a Shoreham accident just as the Licensing Board and Appeal Board found it would help at Shearon Harris. In any case, there is no litigable issue because LILCO does not rely on the informal alerting process.

^{10/} Both the applicant and FEMA presented testimony in the Shearon Harris proceeding supporting the existence of "informal alerting." One study offered by the applicant's witness found that 75% of people engaged in "informal alerting", and the FEMA witness offered a study that said that 87.5% of the people would engage in it. Shearon Harris, 23 NRC at 388-89. The Board noted that the data base was "not very robust," but nonetheless found that "the assumption that 50% of the alerted households would engage in such activities is a reasonable and, perhaps, conservative estimate." Id. at 389.

Conclusion

For the reasons stated above, LILCO asks that the Board reject in its entirety the Intervenors' "Emergency Planning Contention Relating to LILCO's New Emergency Broadcast System Proposal."

Respectfully submitted,



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DATED: January 27, 1988

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

_____)	
In the Matter of)	
LONG ISLAND LIGHTING COMPANY)	Docket No. 50-322-OL-5
(Shoreham Nuclear Power Station,)	(EP Exercise)
Unit 1))	
_____)	

Emergency Planning Contentions Relating
to the February 13, 1986 Exercise

August 1, 1986

Filed by: Suffolk County,
The State of New York, and
The Town of Southampton

mately 11:30). Dose projections were available by 11:49. However, LILCO never warned the public of possible food chain contamination, even though the LILCO players were told that approximately 18 percent of the public had not yet evacuated from the 10-mile EPZ by 2:40.

D. During the exercise, LERO personnel apparently never completed the "Ground Deposition Calculation Worksheet for Particulate Radionuclide Releases," OPIP 3.5.2, Att. 3, although the necessary data were apparently available and completion of such a form is required by OPIP 3.5.2, § 5.3, and OPIP 3.6.6.

For the foregoing reasons, the exercise precludes a finding that the LILCO Plan complies with 10 CFR §§ 50.47(b)(10) and NUREG 0654 § II.J.11, and precludes a finding of reasonable assurance that adequate protective measures can and will be taken in the event of a Shoreham accident.

VIII. CONTENTIONS EX 38-39: FUNDAMENTAL FLAWS RELATING TO PUBLIC INFORMATION

CONTE.NTION EX 38. The exercise demonstrated a fundamental flaw in the LILCO Plan in that LILCO was unable to provide timely, accurate, consistent and non-confusing information to the news media at the Emergency News Center ("ENC"), thus failing to implement Section 3.8.B and OPIP 3.8.1 of the LILCO Plan. The Plan provides, in pertinent part, that: "All Public Information personnel will confer on a regular basis to ensure that accurate

and consistent emergency information is being shared and discussed" (Plan at 3.8-4); news briefings at the ENC "shall serve three purposes:

- to provide accurate information on a timely basis
- to ensure public and media confidence
- to prevent misinformation and rumors"

(Plan at 3.8-5); and, press conferences will "provide up-to-date information, respond to any rumor received, and answer any questions the media may have." Plan at 3.8-6. Similarly, OPIP 3.8.1 provides that the LERO Coordinator of Public Information is to "confer with the Director of Local Response . . . and the Public Information Staff at the ENC on a regular basis to maintain consistent information content"; "obtain up-to-date information regarding offsite emergency response in preparing press releases"; and, "correct misinformation by . . . providing accurate information to LILCO Rumor Control personnel and answering questions regarding local response." As the examples in subparts A-Q below reveal, however, during the exercise LILCO was incapable of complying with these directives. Thus, LILCO failed to satisfy objectives ENC 1 and 3-6, and the exercise demonstrated that the LILCO Plan is fundamentally flawed in that it cannot be implemented by LERO personnel and fails to comply with 10 CFR § 50.47(b)(7) and NUREG 0654 § II.G.4.

Exercise results which individually and collectively evidence these LILCO failures and therefore preclude a finding of reasonable assurance that adequate protective measures can and will be taken in the event of a Shoreham accident include the following:

A. The ENC was not declared operational until 8:25, and there was apparently no contact with the media by LERO personnel at the ENC until after that time. The first press briefing was not held until 8:40. Thus, the ENC provided no information at all to the media until almost three hours after the emergency was declared, and long after the 6:52 EBS message announcing the Alert condition and school closings had been broadcast. In a real emergency such a delay would result in substantial confusion, speculation, rumor generation, lack of confidence in LILCO's ability to deal with the emergency, and refusal to believe information, advice or instructions subsequently disseminated by LILCO personnel.

B. LERO News Release No. 1 announcing an Alert condition and the alleged fact that there had been no release of radiation was not provided to the press by the ENC until 8:21. Although a Site Area Emergency had been declared at 8:19 and the ENC was informed of that declaration at that time (FEMA Report at 25), no mention was made to the media at 8:21 that a Site Area Emergency had been declared, that a minor release of radiation had occurred, and that dairy animals should be placed on stored feed. Thus, the first LERO press release did not contain up-to-date information, and it was inaccurate.

C. The Site Area Emergency, radiation release, and dairy animal recommendation was announced by EBS broadcast at 8:41. Despite the fact that the decision to issue that EBS message was made by the LERO Director by 8:37, LERO News Release No. 2, which included the information in that EBS message, was not approved by the Director until 9:00. As of 9:15, it had still not been distributed to the press.

D. Insufficient copying capabilities at the ENC contributed to delays in the distribution of information, including EBS messages and press releases, to the media. FEMA Report at 53.

E. Insufficient and inadequate maps and displays in the media briefing room contributed to the confusing and unclear information being disseminated by LERO personnel. FEMA Report at 52, 54.

F. Copies of EBS messages provided to the media contained extraneous information that should have been deleted, and thus were unclear, confusing, and inconsistent with radio broadcasts. See FEMA Report at 53, 54.

G. LERO press releases were distributed much too late, and were inaccurate and in conflict with other data in the public domain by the time they were provided to the media. Although the ENC received LERO Press Release No. 3 at 10:15, it was not posted at the ENC for the press until 11:10. LERO Release No. 4 was received by the ENC at 10:45, but was not posted until 11:56. LERO Release No. 5 covered the 10:24 evacuation recommendation for zones A-M, Q and R. It was approved by the LERO Director at

11:02, but did not even arrive at the ENC until 11:36, and was not made available to the press until sometime later. LERO Release No. 6, approved by the Director at 12:25, was not posted at the ENC until 2:10; LERO Release No. 7, approved at 1:11, was received by the ENC at 1:47, but not posted for the press until 3:07.

H. The LERO Director decided to recommend evacuation of the entire EPZ at 11:46 and the recommendation was announced to the public in a 12:00 noon EBS message. FEMA Report at 26. However, the ENC did not inform the media of the Director's decision, or the content of the 12:00 EBS message, which was supposedly repeated every 15 minutes thereafter, until 12:47.

I. Although LERO workers were instructed to ingest KI tablets at 9:45, LERO ENC personnel did not decide to inform the media of that fact until 1:05, and the media was then requested not to print that information. Such a delay and the attempt to conceal pertinent information about the health-threatening effects of the accident would result in further reductions in LILCO's credibility and refusals of the media and the public to obey LILCO's advice during a real emergency.

J. During press conferences, LERO personnel were unable to respond satisfactorily or accurately to questions about evacuation. In addition, the ENC personnel were unable to provide any information to the media, much less accurate and timely data, concerning traffic conditions, conditions or evacuation activity on the water portion of the EPZ, or protective actions for the correctional facility in the EPZ.

They also were unable to respond to questions about manpower at bridges and tunnels on evacuation routes, or the activities of the Nassau County Police. In addition, LERO Public Information personnel were unable to contact Marketing Evaluations, Inc. in a timely manner and therefore had no information concerning siren activation failure.

K. The ENC did not learn of the pretended Red Cross designation of 15 congregate care centers until 2:40. The EOC had this information, however, at 12:03. Thus, the ENC did not receive, and therefore was not in a position to disseminate information in a timely manner.

L. The log kept by ENC personnel recorded that at 12:01, the gravel truck impediment was being removed. In fact, as of that time, no equipment had yet arrived at the site of the gravel truck impediment, and when it eventually did arrive, it was inadequate to remove the impediment. See FEMA Report at 36-37. Thus, ENC personnel had inaccurate information which, if released, would have misled the public into believing the intersection was clear when in fact it was not.

M. At the 1:48 press conference, LERO personnel at the ENC were not able to respond to questions about the fuel truck impediment, although that impediment had arisen almost 3 hours earlier.

N. At press conferences, LERO personnel frequently misstated facts and provided inaccurate information. For example, at 9:16, it was incorrectly announced that the Site Area Emergency had been declared at 8:23, and that plant shutdown had

occurred at 5:15. The correct times were 8:19 and 5:15. Similarly, at 11:38, LERO incorrectly announced that the winter population of the EPZ is higher than the summer population.

O. Although LILCO Press Releases 4 and 5 were received by the ENC at 8:45 and 9:05, respectively, they were not given to the Media Monitoring personnel at the ENC until 9:31.

P. The Rumor Control operation, which is coordinated and controlled by LERO Public Information and ENC personnel, was ineffective as described in Contention Ex 39.

Q. Neither LILCO's proposal to expedite the dissemination of information by substituting summary information for press releases and transmitting it by computer to the ENC, nor its proposal to add an extra LERO spokesperson at the ENC, would resolve the deficiencies revealed during the exercise, including those listed in this contention and in Contention Ex 38. Nor would replacement of copying machines. See letter dated June 20, 1986, from John D. Leonard to Harold Denton (SNRC-1269), Encl. 1 at 7; letter dated June 20, 1986, from John D. Leonard to Harold Denton (SNRC-1270), Att. I at 2.

CONTENTION EX 39. The exercise revealed a fundamental flaw in the LILCO Plan in that LILCO is incapable of dealing with rumors or responding to inquiries from the public during an emergency as required by 10 CFR § 50.47(b)(7), and NUREG 0654 § II.G. According to the LILCO Plan, in an emergency the public is expected to call LILCO Customer Relations District Offices and Customer Call Boards to obtain information and ask questions.

Plan at 3.8-5; OPIP 3.8.1. And, during the exercise, simulated EBS messages instructed the public to call LILCO District Offices to have questions answered. Thus, the Plan provides, under the heading "Correcting Misinformation," that "LILCO personnel at these locations will be provided with updated press releases. If they cannot answer the inquiry they will call the ENC where a coordinated rumor control point will be manned by representatives from LERO and the Utility." Plan at 3.8-5. During the exercise, LILCO employees from several LILCO District Offices and Call Boards responded to simulated inquiries from the public. As demonstrated by the examples set forth below, however, such responses demonstrated LILCO's inability to dispel rumors, to correct misinformation, to provide necessary and accurate information to the public, to provide such information in a timely manner, and to provide consistent, coordinated, and non-conflicting information to the public. Thus, LILCO failed to comply with 10 CFR 50.47(b)(7), and NUREG 0654 § II.G. It also failed to comply with the provisions of its own Plan, or to satisfy objectives ENC 1, 3-6. These examples of repeated errors and failures demonstrate a fundamental flaw in the LILCO Plan.

A. During the exercise, the LILCO District Offices and Call Boards consistently had incorrect or superseded information concerning the status of the emergency, protective action recommendations, and other basic data. Thus, they were unable to provide accurate and essential information to members of the public or the press. Instead, if Call Board operators received calls from the public, as postulated in the LILCO Plan to occur

during an actual emergency, they could have provided only information that was inaccurate, incomplete, inconsistent and in conflict with that being released by other LILCO personnel at other locations (for example, in EBS messages or press releases). See FEMA Report at 53. For example:

(i) The logs kept by all the LILCO Call Board operators, including, for example, those kept by the Port Jefferson, Patchogue, and Brentwood Customer Call Board operators, indicate that the information available to them until approximately 11:00 stated that a Site Area Emergency existed, even though a General Emergency had been declared at 9:39.

(ii) The logs kept by the Call Board operators indicate that the operators did not receive word that people in zones A-M, Q, and R had been advised to evacuate until approximately 12:35, even though that advisory had first been issued to the public at 10:24.

(iii) The logs kept by the Call Board operators indicate that the operators did not receive word that LERO had recommended evacuation of the entire EPZ until approximately 2:00, even though that advisory had first been made at approximately 12:00 noon.

(iv) The logs kept by the Call Board operators indicate that the operators did not receive word of the declaration of an Unusual Event until approximately 8:15, although that declaration was in fact made at 5:40; similarly, the Call

Board operators did not receive word that an Alert had been declared until approximately 8:30, although the declaration was made at 6:17 and an EBS message was simulated at 6:52.

(v) The Call Board logs indicate that most Call Board operators did not receive word that schools were supposed to be implementing early dismissals until approximately 8:50, although an EBS message regarding early school closings was simulated at 6:52.

B. During the exercise, LILCO personnel were unable to provide prompt responses to simulated rumor messages, which were in the scenario purporting to be telephone inquiries from members of the public to LILCO Call Boards and District Offices. Instead, responses were generally delayed by more than 30 minutes, and frequently longer. For example:

(i) A rumor message inquiring whether the appliances in the caller's home were radioactive was given to the Patchogue Call Board operator at 1:45; a response was not relayed to the caller until 2:24.

(ii) A rumor message inquiring what to do about a daughter not yet home from Shoreham-Wading River High School was given to the Patchogue Call Board operator at 10:00; a response was not relayed to the caller until 10:52.

(iii) A rumor message inquiring whether the caller, from Bellport, should evacuate was given to the Patchogue Call Board operator at 12:05; a response was not relayed to the caller until 1:00.

(iv) A rumor message inquiring about how extensive evacuation will be, and what to do about trucks going into the Shoreham area, was given to the Hicksville Call Board operator at 7:51; a response was not relayed to the caller until 8:20.

(v) A rumor message inquiring whether the cooling towers on the Shoreham plant had blown up was given to the Riverhead Call Board operator at 1:30; a response was not relayed to the caller until 2:48.

(vi) A rumor message inquiring if lobsters caught off the Shoreham jetty that morning were safe to eat was received by the Riverhead District Office at 11:30; a response was not relayed to the originating party until 12:28.

(vii) A rumor message from a caller whose husband works at the plant and was not home yet, inquiring whether he had been hurt, was given to the Brentwood Call Board operator at 12:43; a response was not relayed to the caller until 1:30.

(viii) A rumor message inquiring whether the plant had been taken over by Arab terrorists was received at 9:54; a response was not relayed to the caller until 10:37.

(ix) A rumor message inquiring what to do with a horse was given to the Port Jefferson Call Board operator at 10:14; a response was not relayed to the caller until 10:47.

(x) A rumor message inquiring how to get off Shelter Island because the ferry had been cancelled was given to the Hamptons Call Board operator at 2:51; a response was not relayed to the caller until 3:24.

(xi) A rumor message from a caller who lived in Medford, but worked in Melville, inquiring what he should do was given to the Huntington Call Board operator at 2:32; a response was not relayed to the caller until 3:05.

(xii) A rumor message inquiring if he could eat the food in his refrigerator was given to the Babylon Call Board operator at 11:59; a response was not relayed to the caller until 12:29.

(xiii) A rumor message from a dairy farmer asking what to do if he is asked to evacuate was received at 9:38; a response was not relayed to the caller until 10:12.

C. During the exercise, rumor control personnel were unable to provide accurate, satisfactory, or reasonable advice or information to simulated public inquiries set forth in rumor messages. Instead, such personnel frequently provided inaccurate or superseded information or demonstrated poor judgment in responding. For example:

(i) In response to an inquiry (at 7:51) from a person who "has trucks going to Suffolk," as to how extensive evacuation would be, the Hicksville Call Board operator responded (at 8:20) that the only protective action was the closing of schools, and that there had been no evacuation recommended. As of 8:20, however, LERO was already beginning to "pre-stage" for an evacuation, and a Site Area Emergency had been declared. In light of these facts, it was inappropriate and dangerous to advise the simulated caller to proceed as planned with sending trucks into the EPZ area.

(ii) In response to an inquiry at 11:30 (Rumor Control Question No. 11) whether lobsters caught that morning on the Shoreham jetty were safe to eat or touch, the Riverhead Call Board operator responded (at 12:28) that there was no reason to believe, and no data to indicate, that anything was wrong with the lobsters. As of 12:28, however, there had already been a major release of radiation, and the entire EPZ had been advised to evacuate. In light of these facts, it was inappropriate to advise the simulated caller to eat the lobsters, without even inquiring as to when that morning they had been caught, and where the caller was located.

(iii) In response to a rumor message from The New York Times, simulated at 8:45, and inquiring "what's going on" at the Shoreham plant, the rumor control responder related that at 5:40 an Unusual Event had been declared, and at 6:17 an Alert had been declared. By 8:45, however, a Site Area Emergency had been declared, schools had been closed and simulated EBS messages had advised that dairy animals be put on stored feed. Thus, the information provided by LILCO's rumor control personnel was inaccurate, misleading, and inconsistent with information being disseminated by other LILCO personnel.

(iv) In response to a rumor message simulated at 3:15, inquiring whether there had been a release, the rumor control responder provided data as of 1:00. Thus, the information provided was inaccurate at the time given, and was misleading and inconsistent with information being disseminated by other LILCO personnel.

(v) A rumor message simulated at 11:45 was purportedly from Dan Rather, who wanted "to take a TV crew into the Shoreham plant," and inquired how to get there. In response, the rumor control responder stated "We don't advise going to the plant. There is a Site Area Emergency. You will be in the way." The responder then gave directions to the plant. At 9:39, however, a General Emergency had been declared and as of 11:45, LILCO was recommending that almost all of the EPZ be evacuated. (At 11:46, the decision was made to evacuate the entire 10-mile EPZ.) The suggestion that going to the plant was inadvisable but nonetheless possible was incorrect, and such suggestion, combined with the giving of road directions to the plant, indicated extremely poor judgment.

(vi) In response to a rumor message simulated at 1:17 inquiring "what areas are to be evacuated," the rumor control responder at 1:21 related that zones A-M, Q and R should evacuate. By 12:00, however, a simulated EBS message had advised that the entire 10-mile EPZ was to evacuate. Thus, the information provided by LILCO's rumor control personnel was inaccurate, misleading, and inconsistent with information being disseminated by other LILCO personnel.

(vii) A rumor message was simulated at 1:15 from a caller in Wading River who reported that people on his street were evacuating, that he could not walk, and did not know what to do. The response to this call apparently was a recording that the office had been "closed due to conditions at the Shoreham plant," and giving the telephone numbers for electrical emer-

gencies. The failure to properly advise the caller how to arrange for transportation for the mobility impaired was grossly improper.

As the foregoing examples illustrate, the exercise demonstrated that LILCO is incapable of implementing its proposed rumor control procedures, or providing accurate, necessary, and consistent information to the public during an emergency, as required by 10 CFR § 50.47(b)(7) and NUREG 0654, § II.G.3.c. Accordingly, the Plan is fundamentally flawed and the exercise precludes a finding of reasonable assurance that adequate protective measures can and will be taken in the event of an accident, as required by 10 CFR § 50.47(a)(1).

IX. CONTENTIONS EX 40-45: FUNDAMENTAL FLAWS RELATING TO IMPLEMENTATION OF PROTECTIVE ACTIONS

CONTENTION EX 40. The exercise demonstrated a fundamental flaw in the LILCO Plan in that the Plan fails to provide any traffic assistance or guidance for evacuees until long after they are likely to be on the roads attempting to evacuate. Under the LILCO Plan and the evacuation time estimates used by the LILCO players during the exercise, it is assumed that Traffic Guides will be at their Traffic Control Posts, "guiding" motorists and implementing traffic control strategies to assure that evacuees will follow the evacuation routes prescribed by the Plan, during the entire evacuation process. See, e.g., App. A at IV-5 thru -72e and V-2; OPIP 3.6.3. Indeed, every LILCO EBS message supposedly broadcast every fifteen minutes, beginning with the

LILCO, January 27, 1988

DOCKETED
USNRC

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CERTIFICATE OF SERVICE

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of
LONG ISLAND LIGHTING COMPANY
(Shoreham Nuclear Power Station, Unit 1)
Docket No. 50-322-OL-3

I hereby certify that copies of LILCO'S Objections to Intervenors' "Emergency Planning Contention Relating to LILCO'S New Emergency Broadcast System Proposal" were served this date upon the following by Federal Express as indicated by one asterisk, or by first-class mail, postage prepaid.

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