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02/02/88

RELATED CORRESPONDENCE

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USNRC

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'88 FEB -3 P3:53

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,	)	
Unit 1)	)	

NRC STAFF OBJECTIONS TO STATE OF NEW YORK'S  
FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION  
OF DOCUMENTS TO THE NRC STAFF AND FEMA

I. INTRODUCTION

On January 22, 1988 the State of New York served its first interrogatories and request for the production of documents relating to the issue of the availability of school bus drivers upon the NRC. The NRC Staff's objections to those interrogatories and request for the production of documents follows.

II. DISCUSSION

Interrogatories to the NRC Staff are limited by 10 C.F.R. § 2.720(h)(2)(ii) and requests for the production of documents are limited by 10 C.F.R. §§ 2.741(e), 2.744 and 2.790. These cited NRC regulations require, inter alia, that to obtain from the Staff the information sought, the information must be necessary to a proper decision in the proceeding and not reasonably obtainable from other sources (§ 2.720(h)(2)(ii)), and for documents, in addition they must be relevant and not exempt from disclosure under § 2.790, the FOIA regulations (§ 2.744(b)).

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The State of New York has cited the appropriate provisions of the NRC regulations in its filing but has neither addressed nor feigned to comply with their substantive requirements. The issue now before this Licensing Board, as framed by the Appeal Board's ALAB-832, 23 NRC 135, 152-154, (1986) and this Licensing Board's Memorandum and Order of October 22, 1987 <sup>1/</sup> is whether there is possible role conflict in the event of an emergency at the Shoreham facility which would diminish the availability of an adequate number of school bus drivers. Our review of the interrogatories and document requests does not indicate that the information sought by the State of New York is relevant to, or necessary for resolution of, the issue before the Licensing Board, and therefore the information is not obtainable from the NRC Staff.

Interrogatory 1

Communication to bus drivers at nuclear facilities other than Shoreham is not relevant to, or necessary for, this Licensing Board's decision.

Interrogatory 2

The provision of emergency plans for facilities other than Shoreham are not relevant to the issue before the Board, and are not necessary for the Board's decision. Further, the emergency plans are public documents available in the Commission's Public Document Room and readily available to the State of New York. See 10 C.F.R. § 2.720(h)(ii).

Interrogatory 3

Discussions, if any have occurred, among NRC, FEMA and/or LILCO regarding the schools evacuation proposals contained in Revision 9 of the LILCO emergency plan are not relevant to whether there will be an adequate supply of bus drivers for school buses in the event of an

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<sup>1/</sup> "Memorandum and Order (Ruling on Applicant's Meeting October 22, 1987 for Summary Disposition of Contention 25.c Role Conflict of School Bus Drivers" slip. op. Dec. 30, 1987 at 1 and 2.

emergency at Shoreham (the remanded issue in this proceeding), nor is the disclosure of any such discussions, if they occurred, necessary to a decision by this Licensing Board. See 10 C.F.R. § 2.720(h).

Interrogatory 4

Not applicable.

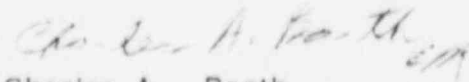
Interrogatory 5

This interrogatory seeks disclosure of the scope of a Staff search for information to regard to Interrogatories. First, this is not relevant to the issue before the Board. Secondly, such information is not necessary to a proper decision in this proceeding upon the issue of availability of school bus drivers.

III. CONCLUSION

For all of the above reasons, the Staff objects to the Interrogatories and Requests for Documents served by the State of New York on January 22, 1988.

Respectfully submitted



Charles A. Barth  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 2<sup>nd</sup> day of February 1988

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In the Matter of )  
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LONG ISLAND LIGHTING COMPANY ) Docker No. 50-322-OL-3  
 ) (Emergency Planning)  
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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF OBJECTIONS TO STATE OF NEW YORK'S FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS TO THE NRC STAFF AND FEMA" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 2nd day of February 1988.

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