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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

James P. Gleason, Chairman  
Dr. Jerry R. Kline  
Mr. Frederick J. Shon

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In the Matter of  
LONG ISLAND LIGHTING COMPANY  
(Shoreham Nuclear Power Station,  
Unit 1)

Docket No. 50-322-OL-3  
(Emergency Planning)  
(ASLBP No. 86-529-02-OLR)  
February 1, 1988

MEMORANDUM AND ORDER

(Ruling on Applicant's Motion of December 8, 1987 for  
Summary Disposition of the Hospital Evacuation Issue)

Pursuant to 10 C.F.R. 2.749, the Applicant (LILCO) filed a motion requesting summary disposition of an issue concerning hospital evacuation which had been approved by the Licensing Board in its Partial Initial Decision (PID), LBP-85-12, 21 NRC 644, 840-46 (1985) but later remanded. The motion is supported by the Staff and opposed by the Intervenors, Suffolk County, State of New York and the Town of Southampton (Governments).

HISTORY

During a hearing on the hospital evacuation issue (inter alia), Applicant successfully defended its emergency plan decision to direct sheltering rather than evacuation as the initial protective action for

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hospitals. Sheltering as the preferred option was based on the facts that the three hospitals at issue were located close to the outer boundary of the Emergency Planning Zone (EPZ), there were relatively high sheltering benefits offered by the hospital buildings, and there was the possibility of additional health problems arising from moving hospital patients. In the unlikely event that evacuation was recommended by LILCO, the plan provided that the evacuation would be by decision of hospital administrators based on dose estimates with no specific estimate of the time necessary to complete it. If evacuation become necessary the Applicant would use the same emergency vehicles to evacuate hospital patients (as were ordered earlier to evacuate other special facilities). The Licensing Board found LILCO's plans for hospitals acceptable and also found the plans not deficient due to a failure to have agreements with reception hospitals inasmuch as such institutions would not agree to commit their facilities to future unpredictable uses.

The Appeal Board remanded the matter, stating that the Licensing Board should have required Applicant to "fulfill the same planning obligations with regard to possible hospital evacuation as the Board imposed in connection with nursing/adult homes." ALAB-832 (23 NRC 135, 157 (1986)). In its decision, the Licensing Board had found a plan deficiency in LILCO's not identifying reception centers for special facilities like nursing homes. PID, 21 NRC at 840. The Appeal Board stated further that the Commission's regulations required an Applicant to provide an analysis of evacuation times and that an ad hoc

arrangement for evacuation would not suffice. See ALAB-832, 23 NRC at 157. The Commission took review of ALAB-832 and confirmed the Appeal Board's judgment that the Applicant's emergency plans for hospital evacuation did not fully comply with the regulations. However, while agreeing that the same planning obligations were required with respect to hospitals as with nursing homes, the Commission noted that if deficiencies in the plans were found to be not significant under 10 C.F.R. 50.47(c)(1), the Licensing Board could still find the plans acceptable. See CLI-87-12 at 22, 23.

#### DISCUSSION

The Applicant bases its motion for summary judgment on the evidentiary record already compiled on this issue, on the Licensing Board's PID and the Commission's decision in CLI-87-12 with reference to the possible applicability of 10 C.F.R. 50.47(c)(1). In LILCO's view, the same factors on which the Licensing Board in its PID approved Applicant's emergency plan, *inter alia*, the distance of the hospitals from the plant, the respective facilities' high shielding effectiveness and the risks involved in moving patients, support a finding that the criteria of 10 C.F.R. 50.47(c)(1) are met--that any deficiencies in the plans are not significant for the plant. LILCO also alleges that current revisions to its emergency plan (Revision 9) supply specific time estimates and other details on need characteristics of patients, assignments of personnel responsibility and numbers of reception hospitals found lacking by the Appeal Board and/or the Commission.

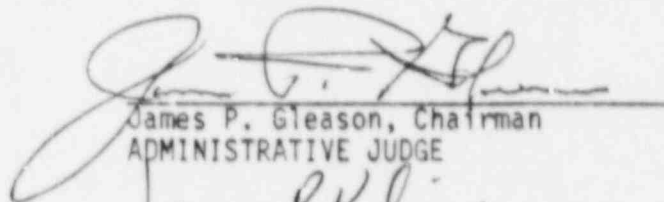
The Government's response to LILCO's motion alleges that (1) the motion is premature since intervenors have had no opportunity to examine revisions of the plan; (2) the motion still basically relies on previous planning efforts found insufficient by the Appeal Board and the Commission; (3) LILCO's statement of material facts presents assertions only and not facts as required by the regulations; and (4) a failure to present detailed planning for hospital evacuation precludes a finding under 10 C.F.R. 50.47(c)(1) that deficiencies in planning are not significant for operation at Shoreham. The Staff, in support of LILCO's motion, concludes that facts in the existing record demonstrate that deficiencies in the plan are not significant for Shoreham, thereby meeting the requirement of 10 C.F.R. 50.47(c)(1), and that Revision 9, subject to Staff verification, will contain the missing information noted by the Appeal Board.

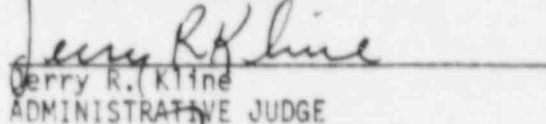
#### DECISION

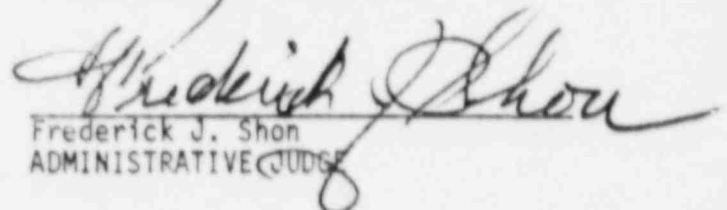
The Board rules that LILCO's motion for summary disposition of the hospital evacuation issue is neither granted nor denied pending evaluation by the intervenors of Revision 9 to Applicant's Emergency Plan. Absent Revision 9, which was delivered to the parties on January 22, an insurmountable challenge is presented under 10 C.F.R. § 2.749(c) to consideration of the Applicant's motion. Intervenors have raised this objection in their response and its applicability here is persuasive (see Government's Response at 14). In light of the necessity of reviewing Applicant's summary disposition motion along with remand

directives by the Appeal Board and the Commission, the Licensing Board is not inclined to consider at this time whether the criteria of 10 C.F.R. 50.47(c)(1) are met by the existing record. The Governments and Staff, if they choose, are provided an additional opportunity herein to respond by February 15, 1988 to Applicant's motion.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD

  
James P. Gleason, Chairman  
ADMINISTRATIVE JUDGE

  
Jerry R. Kline  
ADMINISTRATIVE JUDGE

  
Frederick J. Shon  
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland  
this 1st day of February, 1988.