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February 5, 1988

James P. Gleason, Chairman
Dr. Jerry R. Kline
Mr. Frederick J. Shon
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Members of the Board:

The Governments are in receipt of the Board's February 1, 1988 Memorandum and Order (Ruling on Applicant's Motion of December 8 [sic], 1987 for Summary Disposition of the Hospital Evacuation Issue). This letter does not deal with the substance of that Memorandum and Order. Rather, it states the Governments' strong objection to the Licensing Board's disregard for the procedures provided in the NRC regulations which is evidenced by its issuance of the Order.

LILCO filed its hospital evacuation summary disposition motion on December 18, 1987. Pursuant to an extension of time granted at the request of the NRC Staff, responses to the LILCO motion were filed by the NRC Staff^{1/} and the Governments^{2/} on January 15. Since the NRC Staff supported LILCO's motion, the Governments, pursuant to 10 CFR § 2.749(a), had the right to submit a response to the new facts and arguments proffered by the NRC Staff.

Pursuant to Section 2.749(a), the Governments' counsel, as well as the Governments' expert (Mr. Hartgen), worked diligently in late January, juggling numerous other Shoreham litigation obligations, to prepare a reply to the NRC Staff's response in support of LILCO's motion. Under the rules the Governments' reply was due to be filed on February 1, 1988. In fact, it was filed on that date. See Reply of Suffolk County, the State of

^{1/} See NRC Staff Response to LILCO's Motion for Summary Disposition of the Hospital Evacuation Issue (January 15, 1988).

^{2/} Suffolk County, State of New York, and Town of Southampton Response to LILCO's Motion for Summary Disposition of the Hospital Evacuation Issue (January 15, 1988).

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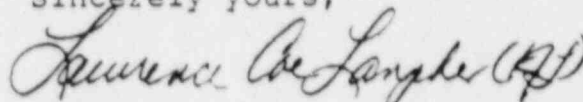
New York, and the Town of Southampton to the NRC Staff Response in Support of LILCO's Motion for Summary Disposition of the Hospital Evacuation Issue, February 1, 1988. The Governments' reply was 24 pages in length, and included an affidavit of Mr. Hartgen, as well as an affidavit by one of the Governments' counsel, Mr. Lanpher.

Suffice it to state that extensive time and effort was devoted by the Governments in preparation of their reply. It was mailed to the service list, as provided by the regulations, on February 1, 1988. Unknown to the Governments, however, that same day, February 1, 1988, the Licensing Board had issued its decision referenced above concerning the hospital evacuation issue, without even waiting until the Governments' reply had been filed and without even the courtesy of advising the Governments that in the event they were planning to exercise their rights under 10 CFR § 2.749(a), they should do so on an expedited basis because the Licensing Board did not plan to await the regulatory period to afford the Governments a fair opportunity for response.

The Board's procedure was unfair and caused a waste of resources by the Governments. And it was the second instance just with respect to the hospital evacuation remand proceeding, of the Board having ignored the Governments' rights and unfairly caused a waste of resources. See letter dated January 14, 1988 from Karla J. Letsche to the Board, concerning the Board's failure to inform counsel that a time extension motion had been granted.

This Board must follow the rules. The Board should also be sensitive to the waste of resources and personal hardship caused by this sort of action. In the event the Board deems it necessary or appropriate to shorten time periods for the filing of responses, the Board should give advance notice to all parties so that resources are not wasted and so that responses can be filed on a time frame so that they are given consideration by the Board.

Sincerely yours,



Lawrence Coe Lanpher

cc: Donald P. Irwin, Esq.
Edwin J. Reis, Esq.
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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 Motion to Strike Intervenors' Unauthorized Reply to NRC Staff's Response to LILCO's Hospital Summary Disposition Motion were served this date upon the following by telecopier as indicated by one asterisk, by Federal Express as indicated by two asterisks, or by first-class mail, postage prepaid.

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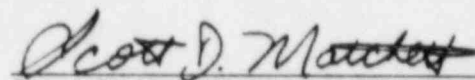
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DATED: February 8, 1988