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UNITED STATES OF AMERICA
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,)	
Unit 1))	

NRC STAFF SUPPLEMENTAL RESPONSE TO
LILCO'S MOTION FOR SUMMARY
DISPOSITION OF THE HOSPITAL EVACUATION ISSUE

I. INTRODUCTION

By Order dated February 1, 1988 ^{1/}, the Licensing Board provided the Staff and Intervenors an additional opportunity to respond to Applicant's summary disposition Motion ^{2/} on hospital evacuation. The Staff herewith provides its supplemental response ^{3/} to Applicant's Motion.

II. DISCUSSION

In its Order, the Board neither granted nor denied Applicant's Motion "pending evaluation by the Intervenors of Revision 9 to Applicant's

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- 1/ Memorandum and Order (Ruling on Applicant's Motion of December 18, 1987 for Summary Disposition of the Hospital Evacuation Issue) ("Order").
 - 2/ LILCO's Motion for Summary Disposition of the Hospital Evacuation Issue, dated December 18, 1987 ("Motion").
 - 3/ The Staff previously filed its Response to LILCO's Motion for Summary Disposition of the Hospital Evacuation Issue, dated January 15, 1988 ("Response").

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Emergency Plan". Order at 4. ^{4/} In the absence of Revision 9, the Board found "an insurmountable challenge" to consideration of the Motion under 10 C.F.R. § 2.749(c). ^{5/} Id. The Board also noted that Revision 9 had been delivered to the parties on January 22, 1988, and gave the Staff as well as Intervenors an opportunity to comment on that Revision. Id.

Pursuant to the Board's invitation, the Staff has reviewed those portions of Revision 9 to LILCO's plan which concern evacuation of hospitals, as well as the affidavits of Diane P. Dreikorn and Edward B. Lieberman (Attachments 2 and 3 to Applicant's Motion). Hogan Affidavit, ¶ 1 and 2. A comparison has been made of the commitments made by Applicant in the affidavits, to provide information on hospital evacuation in Revision 9, with the actual information contained in Revision 9. Id. ¶ 3. On the basis of this comparison, the Staff has verified that each of the pieces of information concerning hospital evacuation, which were either described or set forth in the affidavits, are contained in Revision

4/ It continues to be the Staff's position that under the guidance of the Commission in CLI-87-12, 26 NRC ____ (December 5, 1987, slip op. at 22-23), the hospital evacuation contentions might be dismissed under 10 C.F.R. § 50.47(c)(1) on the basis of the former record without the consideration of any newly provided material.

5/ 10 CFR § 2.749(c) provides:
Should it appear from the affidavits of a party opposing the [summary disposition] motion that he cannot, for reasons stated, present by affidavit facts essential to justify his opposition, the presiding officer may refuse the application for summary disposition or may order a continuance to permit affidavits to be obtained or make such other order as is appropriate and a determination to that effect shall be made a matter of record.

9. Id. ¶ 4. The information, in the general categories set forth by the Staff in its Response, ^{6/} is found in Applicant's plan as follows:

a. a quantification of the hospital beds ordinarily holding ambulatory patients, wheelchair patients and stretcher patients.

Revision 9 - OPIP 3.6.5, Att. 2, pp.6,8

b. a translation of the above numbers into vehicle requirements.

Revision 9 - OPIP 3.6.5, Att. 2, pp.6,8

c. additional details concerning LERO's initiation and coordination of a hospital evacuation.

Revision 9 - OPIP 3.6.5, § 5.5.1 p.8

OPIP 3.6.5, § 5.5.5 p.9

OPIP 3.6.1, Att. 2a p.42b

OPIP 3.6.5, § 5.6.6c p.13

d. a modification of the list of reception hospitals to include only those at least 5 miles from the EPZ boundary and with the capability to treat contaminated individuals.

Revision 9 - OPIP 3.6.5, Att. 5, pp.43-45;

Section 3.7A, p. 3.7-1; and

OPIP 4.2.2, Att. 1, pp. 6-8

e. hospital evacuation time estimates.

Revision 9 - Appendix A, Table XIII A, pp. IV-184 to IV-185

6/ Staff Response at 12.

III. CONCLUSION

The Staff has verified that Revision 9 contains that information attested to in Applicant's Motion and described in the Staff's original Response ^{7/}. As we have previously shown, there are no genuine issues of material fact to be decided, Revision 9 to LILCO's emergency plan contains the matters detailed in its Motion of Summary Disposition, and Applicant's Motion should be granted.

Respectfully submitted,

Richard G. Bachmann

Richard G. Bachmann
Counsel for NRC Staff

Dated at Rockville, Maryland
this 16th day of February 1988

^{7/} On the same day the Board issued its Order, February 1, 1988, Intervenor's filed a Reply to the NRC Staff Response to LILCO's Motion for Summary Disposition of the Hospital Evacuation Issue ("Reply"). This lengthy Reply was ostensibly filed pursuant to 10 C.F.R. § 2.749(a), which permits a party opposing a summary disposition motion to "respond in writing to new facts and arguments presented in any statement filed in support of the motion". However, Intervenor's admit that "[t]he Staff's Response offers little in the way of new facts and arguments" and make no effort to identify the "new facts and arguments" in the Staff Response. Reply at 2. Moreover, Intervenor's use this document as a vehicle for ad hominem attacks on Staff counsel for talking to counsel for other parties. These attacks have no place in this proceeding. Reply at 20-21. Intervenor's February 5, 1988 letter to the Board is equally without merit. There the Intervenor's attack the Board for failing to await a reply from the Intervenor's, a reply which the Intervenor's, without showing new facts, had no right to make. The Board should formally reject Intervenor's Reply as being outside of filings permitted by the Commission's Rules.