

Case No. Official E. S. No. 16  
50-322 OL-3

A-16

(GC, Board, Party)

Disposition: Identified   
Rejected  Received

DOCKETED  
USNRC

IN THE MATTER OF:

DATE: July 5, 1988 AUG 11 P5:55

LILCO

Date: 7-11-88 Witness: Reporter: DWS

OFFICE OF SPECIAL  
DOCKETING & SERVICE  
BRANCH

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

No. Pages:

Before the Atomic Safety and Licensing Board

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

Docket No. 50-322-OL-3  
(Emergency Planning)

STATE OF NEW YORK'S RESPONSE TO LILCO'S THIRD SET OF  
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS  
REGARDING CONTENTIONS 1-2, 4-8, AND 10 TO SUFFOLK COUNTY,  
NEW YORK STATE, AND THE TOWN OF SOUTHAMPTON

As ordered by the Board during the June 29, 1988 Conference of Counsel (Tr. 20934), the State of New York hereby responds to "LILCO's Third Set of Interrogatories and Requests for Production of Documents Regarding Contentions 1-2, 4-8, and 10 to Suffolk County, New York State, and the Town of Southampton," dated June 7, 1988 ("LILCO's Third Interrogatories").<sup>1</sup>

<sup>1</sup>The submission of this response by the State of New York to LILCO's Third Interrogatories may not be construed as a waiver or withdrawal of any of the State of New York's rights or any of its previously asserted arguments pertaining to the so-called "integrity of the proceeding" issue, such as the matters discussed in the "Governments' Motion for Licensing Board to Vacate June 17, 1988 Order," dated June 20, 1988.

General Objection No. 1

The State of New York objects to all of LILCO's Third Interrogatories to the extent that they seek the presentation of information, identification of documents, and the production of documents themselves, that are possibly within the possession, custody or control of the County of Suffolk rather than the State of New York. The County of Suffolk is a governmental entity that is separate from, and independent of, the State of New York. The State of New York is not responsible for responding to LILCO's Third Interrogatories on the County of Suffolk's behalf.

LILCO Interrogatory No. 124.

With respect to the Suffolk County Emergency Operations Plan, please state when, if ever, Suffolk County or the State of New York first produced this document to LILCO in response to discovery requests. Specifically, your answer to this interrogatory should include the following:

- a. Please list the date, method of transmittal, and specify the request or requests to which this document was produced as responsive.
- b. If records sufficient to answer part a above are not in the possession of outside Counsel for Suffolk County or the State of New York, then search the files of the Suffolk County Attorney and produce any and all documents from 1982 to the present which would provide a response to this Interrogatory.
- c. If records sufficient to answer part a of this Interrogatory are not available in the files of the Suffolk County Attorney, please state the name, position, and office location of the person or persons having possession, custody, or control of documents which would be responsive to this Interrogatory.
- d. If such documents are unavailable, or have been destroyed or lost, please describe when, why, and

at whose direction this occurred.

Response:

See General Objection No. 1 with regard to all subparts of this interrogatory.

In addition to objecting on the grounds set forth in General Objection No. 1, the State of New York objects to subpart (a) because this subpart imposes an undue burden on the State of New York. LILCO is fully capable of searching its own files and canvassing its own employees to determine the procedural parameters of its own discovery request for the Suffolk County Emergency Operations Plan, if there was such a request.

Notwithstanding these objections, counsel for the State of New York discussed production of a successor (the New York State Disaster Preparedness Plan) of an outdated portion of the Suffolk County Emergency Operation Plan during recent Shoreham hearings. See Tr. 20549, 20822-20826. The State of New York's response to LILCO Interrogatory No. 124 is no different than what counsel for the State of New York stated at those places in the transcript: the State of New York provided LILCO with a copy of a successor (the New York State Disaster Preparedness Plan) of an outdated portion of the Suffolk County Emergency Operations Plan under cover of a letter from the State Radiological Emergency Preparedness Group to Donald P. Irwin, dated February 17, 1984, in response to LILCO's February 8, 1984 request for the New York State Disaster Preparedness Plan. Copies of this transmittal

letter and two related transmittal letters are attached.

LILCO Interrogatory No. 125.

Please list the names and positions of all persons with the Suffolk County or State of New York governments who have copies of all or any part of the Suffolk County Emergency Operations Plan. Specifically, in your response to this interrogatory please identify the following persons:

- a. Identify the person(s) within the Suffolk County government who are responsible for maintaining a master copy, if any exists, of this document.
- b. Identify the person(s) within the Suffolk County government who are responsible for updating this document, or keeping it current.
- c. Identify all persons within the Suffolk County and State of New York governments who have a copy or copies of all or any part of this Plan, and for each person so identified list the specific parts of the Plan in the custody of each.

Response:

See General Objection No. 1 with regard to all subparts of this interrogatory.

In addition to objecting on the grounds set forth in General Objection No. 1, the State of New York objects to subpart (c) because this subpart imposes an undue burden on the State of New York and is overly broad, since "persons within State of New York government" encompasses hundreds of thousands of persons. Notwithstanding these objections, with regard to subpart (c), upon information and belief, member agencies of the New York State Disaster Preparedness Commission have copies of a successor (the New York State Disaster Preparedness Plan) of an outdated

portion of the Suffolk County Emergency Operations Plan. The State of New York is continuing its effort to determine whether "persons in State of New York government" have copies of the Suffolk County Emergency Operations Plan, but, to date, no copies have been located, except one copy which, upon inquiry from counsel, was located in the files of the State Emergency Management Office (SEMO) on June 6, 1988, and which was originally received on May 6, 1988 from the County of Suffolk. SEMO is the state agency that oversees state planning in areas that the Suffolk County Emergency Operations Plan pertains to: i.e., areas other than radiological emergencies at nuclear power plants.

LILCO Interrogatory No. 126.

Identify all persons within the Suffolk County or State of New York governments who assisted in any way in the gathering of documents in preparation for Suffolk County's production of documents responsive to LILCO's discovery requests dated June 2, 1982 - July 21, 1983, August 8, 1983, and March 24, 1988 as described in LILCO's Response to "Suffolk County Response to Licensing Board Discovery Inquiries," dated June 1, 1988. Specifically, in your response to this interrogatory please include answers to the following questions:

- a. Identify the person or persons responsible for coordinating the document production effort.
- b. Identify the person within the Suffolk County government who produced the Suffolk County Emergency Operations Plan to Kirkpatrick & Lockhart ("K & L") for production to LILCO, including the date of such production to K & L.

Response:

See General Objection No. 1 with regard to all subparts of

this interrogatory.

Notwithstanding this objection, no persons within State of New York government "assisted in any way in the gathering of documents in preparation for Suffolk County's production of documents" responsive to the enumerated discovery requests. Discovery requests dated June 2, 1982 - July 21, 1983 and August 8, 1983 have no relation to the State of New York whatsoever because the State of New York first entered this licensing proceeding in January 1984, long after those discovery requests apparently were served on the County of Suffolk. In any event, "Suffolk County's production of documents" has been conducted independently from the State of New York because, as stated in General Objection No. 1, the County of Suffolk is a governmental entity that is separate from, and independent of, the State of New York and the State of New York has no responsibility for responding to any interrogatories, including LILCO Interrogatory No. 126, on the County of Suffolk's behalf.

LILCO Interrogatory No. 127.

Identify the person within Suffolk County government who provided the copy of the Suffolk County Emergency Operations Plan which was produced to LILCO on or about May 24, 1988.

- a. Is the person identified in response to this interrogatory the same person as previously identified in response to part of a Interrogatory No. 125?
- b. Is the document produced to LILCO the same as that maintained by Mr. Petrone?
- c. If Mr. Petrone is not the person responsible for maintaining a master copy, please identify the

person who has it, or from whom he received it.

Response:

See General Objection No. 1 with regard to all subparts of this interrogatory.

All objections and responses not addressed in the attached verifications of Mr. Davidoff and Mr. DeVito are stated by counsel.



Fabian G. Palomino  
Richard J. Zahnleuter  
Special Counsel to the Governor

Attorneys for Mario M. Cuomo,  
Governor, and the State of New York

## STATE OF NEW YORK



## DEPARTMENT OF HEALTH

CORNING TOWER • THE GOVERNOR NELSON A. ROCKEFELLER EMPIRE STATE PLAZA • ALBANY, N.Y. 12237

DAVID AXELROD, M.D.  
Commissioner

February 17, 1984

Donald P. Irwin, Esq.  
Hunton & Williams  
707 East Main Street  
Richmond, VA 23219

Dear Mr. Irwin:

As requested, enclosed herewith via Federal Express  
(2 separate envelopes) are the following documents:

- 1) NYS Disaster Preparedness Plan
- 2) NYS Radiological Emergency Preparedness Plan
- 3) Wayne County Radiological Emergency Preparedness Plan
- 4) Monroe County Radiological Emergency Preparedness Plan
- 5) Radiological Emergency Response Interim Plan for  
Implementing Compensating Measures for Rockland County

Sincerely yours,

A handwritten signature in cursive script that reads "Lucy Ann Mazzaferro".

Lucy Ann Mazzaferro  
Radiological Emergency  
Preparedness Group

cc: Rick Zahnleuter



## STATE OF NEW YORK



## DEPARTMENT OF HEALTH

CORNING TOWER • THE GOVERNOR NELSON A. ROCKEFELLER EMPIRE STATE PLAZA • ALBANY, N.Y. 12237

DAVID AXELROD, M.D.  
Commissioner

February 21, 1984

Donald P. Irwin, Esq.  
Hunton & Williams  
707 East Main street  
Richmond, VA 23219

Dear Mr. Irwin:

In addition to materials previously sent to you on February 17, enclosed herewith via Federal Express are the following documents:

- 1) Oswego County Radiological Emergency Preparedness Plan
- 2) Westchester County Radiological Emergency Preparedness Plan
- 3) Orange County Radiological Emergency Preparedness Plan

Sincerely yours,

A handwritten signature in cursive script that reads "Lucy Ann Mazzaferro".

Lucy Ann Mazzaferro  
Radiological Emergency  
Preparedness Group

cc: Rick Zahnleuter

STATE OF NEW YORK



DEPARTMENT OF HEALTH

CORNING TOWER • THE GOVERNOR NELSON A. ROCKEFELLER EMPIRE STATE PLAZA • ALBANY, N.Y. 12237

DAVID AXELROD, M.D.  
Commissioner

February 22, 1984

Donald P. Irwin, Esq.  
Hunton & Williams  
707 East Main Street  
Richmond, VA 23219

Dear Mr. Irwin:

In addition to materials previously sent to you on February 17 and February 21, enclosed herewith via Federal Express is the following document:

- 1) Putnam County Radiological Emergency Preparedness Plan

Sincerely yours,

A handwritten signature in cursive script that reads "Lucy Ann Mazzaferro".

Lucy Ann Mazzaferro  
Radiological Emergency  
Preparedness Group

cc: Rick Zahnleuter

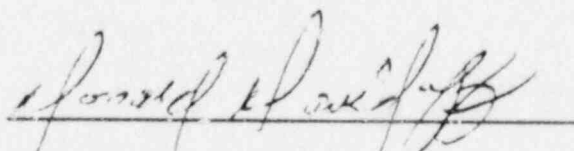
VERIFICATION


STATE OF NEW YORK)

SS:

COUNTY OF ALBANY)

Donald B. Davidoff, being duly sworn, deposes and says that he has read the last two sentences in the State of New York's response to LILCO Interrogatory No. 124, as well as the attached transmittal letters. Based upon information of which he has personal knowledge and with which he has been provided, he believes that the information in the last two sentences in this response and in the attached transmittal letters is true to the best of his knowledge and belief, and, on these grounds, verifies the information presented in the last two sentences in this response and in the attached transmittal letters on behalf of the State of New York.

  
Donald B. Davidoff

Sworn to before me this 15 day  
of July 1988 

Notary Public

RICHARD J. ZAHNLEUTER  
Notary Public, State of New York  
Qualified in Albany County  
No. 4766948  
Commission Expires March 30, 1989

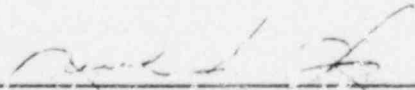
VERIFICATION

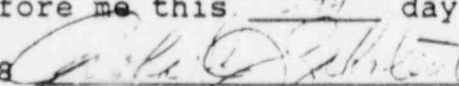
STATE OF NEW YORK)

ss:

COUNTY OF ALBANY)

Donald A. DeVito, being duly sworn, deposes and says that he has read the last three sentences of the State of New York's response to LILCO Interrogatory No. 125. Based upon information of which he has personal knowledge and with which he has been provided, he believes that the information presented in the last three sentences of this response is true to the best of his knowledge and belief, and, on these grounds, verifies the information presented in the last three sentences of this response on behalf of the State of New York.

  
\_\_\_\_\_  
Donald A. DeVito

Sworn to before me this 5th day  
of July 1988 

Notary Public

RICHARD  
Notary Public, State of New York  
Qualified in Albany County, New York  
No. 4766948  
Commission Expires March 30, 1988  
A..