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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
LONG ISLAND LIGHTING COMPANY)	Docket No. 50-322-OL-3
)	(Emergency Planning)
(Shoreham Nuclear Power Station,)	
Unit 1))	

GOVERNMENTS' RESPONSE TO LILCO'S MOTION TO STRIKE
SUFFOLK COUNTY'S TESTIMONY REGARDING ROLE
CONFLICT OF SCHOOL BUS DRIVERS

LILCO's Motion to Strike Testimony of Stephen Cole, et al. (April 20, 1988) ("LILCO Motion") seeks to strike substantial portions of the Testimony of Stephen Cole, Ralph H. Turner, and Allen H. Barton on Behalf of Suffolk County on the Remand of Contention 25.C -- Role Conflict of School Bus Drivers (April 13, 1988) ("County Testimony"). For the reasons set forth below, LILCO's Motion should be denied in its entirety.

In particular, the Board will recognize after reading both LILCO's and the County's Testimony that LILCO's counsel has either never read the LILCO Testimony or improperly attempts to strike portions of the County's Testimony which are identical in nature to LILCO's Testimony -- not in the conclusions drawn, but in the type of information given and the manner in which it is presented. Thus, LILCO's Testimony and the County's Testimony

both start with a discussion of the background on the theory of role conflict, then address the literature, discuss the other side's position on the issue, present survey evidence, and discuss why each other's survey is deficient. Both pieces of testimony are approximately the same length.

The similar approach taken by both sides to presenting the evidence is logical and appropriate. The limited discussion of the theory and literature provided by both parties is useful because it has been over four years since the issue was addressed by the parties in the earlier proceeding. Given this long period of time and the voluminous record compiled on this and other issues since that time, it makes sense for the parties to seek to capsulize their positions. By including limited discussions of the theory and literature pertaining to role conflict, both sides have also implicitly recognized the reality that one cannot present testimony on the role conflict of school bus drivers without tying it in to the general factors that pertain to role conflict. In addition, by discussing their disagreements with the other side's position, both parties have effectively capsulized for the Board the areas where they conflict.

Notwithstanding the very similar approaches taken by the parties in presenting their testimony, LILCO now seeks to strike wholesale portions of the County's Testimony on grounds that, even if they were valid (which they are not), would apply equally to LILCO's own testimony. For instance, LILCO seeks to strike the County witnesses' testimony discussing the factors that cause

role conflict and applying those factors to the school bus drivers, on the ground that the Board already knows enough about role conflict and that no further background is necessary. At the same time, LILCO fails to inform the Board that the LILCO Testimony has a 16-page section entitled "Literature and Theory," the title of which is self-explanatory, which is filled with background information designed to inform the Board of LILCO's position on role conflict. The Motion reaches even more absurd and disingenuous heights when it claims that the County is barred from discussing such issues as the effects of Chernobyl, the fact that 255 school bus drivers have signed statements that they will not drive their buses in a radiological emergency at Shoreham, and the usefulness of the County's surveys, while at the same time LILCO devotes several pages to the exact same issues.

The Board cannot accept this ruse. The content and structure of the LILCO Testimony demonstrates that LILCO does not actually believe that the County's Testimony is deficient. Rather, LILCO seeks to gut the County's Testimony while retaining the same "deficiencies" in its own testimony. This attempt to have one set of rules apply to the Governments while having another set apply to LILCO is improper; fortunately, it is also transparent and should be rejected by the Board.

The Governments will now address the specific issues raised by LILCO's Motion.

1. Brief Discussion of the Factors Affecting Role Conflict and Their Application to the School Bus Drivers

LILCO first moves to strike eight and one half pages of the County's Testimony which LILCO mischaracterizes as addressing only "general theory." LILCO Motion at 2-3. In fact, this section succinctly states the bases for the County witnesses' assertion that the school bus drivers on which LILCO intends to rely will experience strong role conflict in a radiological emergency at Shoreham and resolve that role conflict in favor of their families. After a brief discussion of what is meant by the term "role conflict" (which is useful so that all readers, including the new Board Chairman, are aware of how the term is used by the witnesses) and the ways in which role conflict may be resolved, the testimony promptly turns to what factors affect how role conflict is resolved and how those factors apply to the school bus drivers. County Testimony at 13-24. Nothing could be more relevant to the issue at hand. While there is certainly some "theory" discussed in these pages, it is directly tied in to the question of how school bus drivers will respond to role conflict.^{1/}

^{1/} Thus, after discussing the factors that affect the resolution of role conflict, see County Testimony at 13-17, those factors are then connected directly to the issue at hand. See County Testimony at 17-24. See also County Testimony at 18 ("Our opinion [on why many school bus drivers will not report for duty] is based on the factors which we have described above"); County Testimony at 19 ("The other factors noted above also support the likelihood that school bus drivers will resolve their role conflict in favor of their families.").

It only makes sense that to discuss how school bus drivers will respond to role conflict in a radiological emergency one must first discuss briefly how human beings respond to role conflict -- school bus drivers are, after all, human beings. Then those factors can be applied to school bus drivers to demonstrate whether the circumstances under which they will be functioning argue more or less strongly for resolution of the perceived role conflict in favor of the family. That is exactly what the County witnesses have done.

It is also what LILCO has done. In 16 pages of the LILCO Testimony, LILCO's witnesses discuss the "Literature and Theory" of role conflict. See LILCO Testimony at 9-25. While LILCO attempts to categorize this testimony as literature appearing since 1983, in fact literature and research occurring well prior to that time are discussed. For instance, at pages 10-12, there are two discussions of research conducted by the Disaster Research Center that was previously presented by former LILCO witness Russell Dynes in the earlier role conflict proceeding. Likewise, LILCO witness Dr. Lindell presents testimony at pages 18-20 of the LILCO Testimony regarding the theory of "bystander intervention" which is based at least in part, on literature published before the prior role conflict hearing. That testimony could have been presented at that hearing, but was not. Thereafter, Dr. Lindell discusses "extrinsic motivation" as a factor in resolving role conflict, which is very similar to some of the factors discussed by the County's witnesses. See LILCO

Testimony at 20-21. Other examples of LILCO discussion of theory and "background" materials abound throughout LILCO's Testimony.^{2/}

The point of citing LILCO's Testimony here is not to take issue with its numerous reference to background materials, the theory of role conflict, the literature on the subject, or other similar evidence that it presents. While the County does not agree with LILCO's interpretation of the literature or the conclusions LILCO's witnesses draw, the use of such evidence to make one's case makes sense. It does not make sense to launch prematurely into a discussion of what bus drivers would or would not do without laying the framework for one's arguments. What is offensive is for LILCO to seek to deny the County the opportunity to do exactly what LILCO is doing -- amassing all of the evidence which it believes is pertinent to the issue and presenting it to the Board in an effective manner. This attempt to have the Board apply different rules to the parties is improper.

LILCO also takes issue with a paragraph on page 13 of the County Testimony which discusses other ways in which role conflict might manifest itself. The basis for LILCO's objection is the assertion that Contention 25.C only addresses role abandonment and not other factors which would serve to inhibit the human resources available to LILCO for an emergency response. See LILCO Motion at 3. This objection is groundless.

^{2/} See e.g., the discussion of the Meda White thesis, LILCO Testimony at 22-23, which LILCO also discussed in its original testimony.

First, it should be noted that the testimony at issue is only a brief paragraph responding to the question of how people might respond to role conflict. As LILCO has said time and again, role abandonment is not the only way people respond. There are other possibilities, and this testimony briefly touches on them. Furthermore, the issue of role impairment, rather than role abandonment, is directly pertinent to the issue at hand. It is not enough simply to have a warm body in an emergency response position. Rather, those who respond must be reliable and capable of performing their functions. A worker who is impaired to the point of being unable to function effectively is not available for an emergency response. Thus, the testimony at issue directly addresses the issue presented in Contention 25.C.

2. The Nature of the Hazard

LILCO next seeks to strike certain testimony on pages 22-24 of the County Testimony on the ground that it references the characteristics of radiation as a hazard, which LILCO claims has already been litigated and thus can never be raised again in this proceeding. See LILCO Motion at 3-4. This LILCO position is clearly incorrect.

First, the testimony at issue discusses how bus drivers (and others) will perceive a radiological emergency, and is presented as a reason why role conflict will be felt particularly strongly by the school bus drivers in a radiological

emergency as opposed to other situations they may find themselves in. Thus, it is plainly relevant to the instant proceeding.

Second, LILCO is wrong when it suggests that the matter is res judicata. While the Board may have found in the PID that "emergency workers" would generally respond the same to radiological and non-radiological emergencies, school bus drivers are not "emergency workers," especially in this case where the bus drivers are not trained emergency workers and, for the most part, are unwilling conscripts expected by no one other than LILCO to implement the LILCO Plan.

Finally, LILCO once again neglects to point out that its own Testimony raises the same issue. At page 33 of the LILCO Testimony, the matter is raised by the LILCO questioner who states, "But the Intervenors will claim that radiological emergencies are different." Taking their cue, the LILCO witnesses reject this theory, citing not only their former testimony before this Board (LILCO can cite to prior testimony, but the Governments cannot), but also raising new arguments such as what they believe happened at Three Mile Island and Ginna. In light of this testimony, it is preposterous for LILCO to state that any discussion of the nature of a radiological emergency as a factor affecting role conflict in bus drivers is improper.

3. Bus Drivers Will Not Respond to a Non-Credible Source of Information Such as LILCO

LILCO's Motion next objects to certain testimony on the same pages which states, in essence, that bus drivers would further be unlikely to resolve their role conflict in favor of implementing LILCO's Plan because of LILCO's lack of credibility in the community. The basis for this objection is that the matter of LILCO's credibility has already been litigated. LILCO Motion at 4-5. LILCO once again misses the mark.

The Governments do not deny that the issue of whether LILCO is perceived to be credible has already been litigated -- and it has been found that LILCO does in fact lack credibility. See PID at 691. But that is not the issue here. The testimony offered by the County's witnesses discusses the effect of the fact of LILCO's low credibility on how bus drivers will resolve their role conflict. This issue has never before been litigated. Thus, it is properly raised and should not be stricken.

4. Telephone Calls to Family Members

LILCO also seeks to strike two references to attempts to communicate with family members by telephone on the ground that the overloading of telephones discussed in those references is precluded by events occurring during the Phase I emergency planning litigation. See LILCO Motion at 5-6. Here, LILCO stretches the Phase I preclusion beyond all reasonable limits.

First, it should be noted that LILCO has been over-inclusive in describing the testimony it wishes to have stricken on this ground. The allegedly offensive testimony is described in the LILCO Motion as "the last sentence on page 24 (beginning with "Also" on page 24, line 15)" as well as another passage. LILCO Motion at 5. However, the cited sentence is not the last sentence on the page. The last sentence of page 24 deals with the situation that would occur even if a bus driver was not inhibited from contacting his or her child because of overloaded telephone lines. The Phase I telephone overload issue did not reach that issue and thus cannot be used to strike the last sentence of the page.

Turning to the next to the last sentence on the page, which is the one LILCO apparently seeks to strike, as well as the other reference to telephone overloading on page 52 of the County testimony, the County witnesses here address the LILCO argument that all an emergency worker needs to do is to make a telephone call to his or her family and role conflict will be resolved. In responding to this point, the County's experts merely state what is a well known emergency planning fact -- that telephone systems get tied up in emergencies. Contrary to LILCO's assertion that the County's experts are not qualified to make this assumption, both Professor Turner and Professor Barton have testified that they are well-versed in the disaster literature. Thus, they are certainly qualified to assume this well-known fact. LILCO may

pursue their qualifications further on cross-examination if it wishes to do so.

5. Fear of the Hazard as a Factor Affecting Role Conflict

In a few passages in their testimony, the County's witnesses explain that the public's fear of radiation, which is stronger than its fear of virtually any other hazard, makes it more likely that bus drivers will resolve their role conflict in favor of their families. LILCO, however, attempts to foreclose the County from discussing this factor by stating that "[t]his fear of radiation has been repeatedly cited by Suffolk County in support of its various arguments about how an emergency response might go wrong." LILCO Motion at 6. Even if LILCO's mischaracterization of the County's Testimony were true, it would not support a motion to strike the testimony at issue, which is focused on the factors affecting role conflict.

In the first passage which LILCO seeks to strike at page 25 of the County's Testimony, the point is made that role conflict would not be resolved by a simple phone call to a family member because, based on the evidence cited, the bus drivers would not feel that their family members were safe until they were a great distance from Shoreham. This is because of the heightened concern which Long Islanders, as well as the rest of the country, have about radiation. It is true that this Board has previously recognized that concern. However, the point of the testimony is not whether that concern exists. Rather, it is how that concern

will affect the resolution of role conflict. Thus, in the context in which the matter is discussed by the County's witnesses, the testimony is plainly relevant to the issue before the Board and cannot properly be stricken.

The same argument holds true for the other two passages which LILCO cites. See LILCO Motion at 6. The witnesses are not attempting to relitigate whether people fear radiation, but how that fear affects role conflict. Accordingly, LILCO's Motion to strike this testimony should be denied.

6. LILCO's Flawed Training Program

LILCO has consistently taken the position that people are more likely to respond in an emergency if they are trained -- in this case by LILCO. This theme is repeated in LILCO's Testimony at 14-15 and 32. The County's witnesses have responded that the offer of LILCO training is unlikely to affect the way the school bus drivers will resolve their role conflict for a number of reasons, including the fact that, only a few months ago, LILCO's training program was found to be "fundamentally flawed" by the OL-5 Exercise Board. See County Testimony at 25-26.

LILCO argues that the County's witnesses cannot discuss the fact that LILCO has been found to be incapable of training emergency workers^{3/} properly for two reasons. The first is that

^{3/} Indeed, even with the training received by LILCO employees, the OL-5 Board found that they were still no better than "amateurs." LBP 88-2, slip op. at 63 (Feb. 1, 1988).

any such testimony constitutes "legal argument" and is thus not the proper subject for fact witnesses; the second is that the point is irrelevant. See LILCO Motion at 6. Both arguments are without merit.

First, the discussion of the OL-5 Board's finding is not legal argument at all. The finding that LILCO's training program is fundamentally flawed is a factual conclusion based on numerous subsidiary factual findings of instances where LILCO's training program fell short. Those factual findings of the OL-5 Board are properly the basis for the County witnesses' testimony.

Second, LILCO's relevancy argument is groundless. The instances in which the LILCO training program was found to be deficient were so pervasive that the training program was deemed flawed. LILCO, however, maintains its position that role conflict will be diminished through the training it will provide to the bus drivers. See LILCO Testimony at 14-15 and 32. If that is true, then the effectiveness of that training is directly at issue. And, since the OL-5 Board's finding bears on the effectiveness of the training that LILCO could provide, it is appropriate for the negative findings of the OL-5 Board to be relied upon by the County's witnesses in this proceeding. The fact that the OL-5 Board did not directly address the narrow issue of whether LILCO's training program could diminish the problem of role conflict does not render the OL-5 Board's finding irrelevant, as LILCO would have it. That argument goes to the weight, not the admissibility of the testimony.

In short, LILCO's strategy is clear. It wants to argue that it can train the school bus drivers in such a way that their role conflict will be resolved favorably to LILCO without allowing any consideration of whether it can actually provide such training. LILCO cannot have it both ways. If it intends to rely on training as a cure for role conflict, then the effectiveness of that training is open to review.

7. Discussion of Disagreements with LILCO's Witnesses

a. The Disaster Literature

LILCO next moves the Board to strike pages 27-37 of the County Testimony which discusses the disaster literature and the way that LILCO has misinterpreted it. LILCO objects to this testimony on the ground that it constitutes improper rebuttal of LILCO's prior testimony. See LILCO Motion at 7-9. LILCO's attempt to strike this relevant and important testimony must fail.

This is one of the most glaring examples of LILCO faulting the County for doing exactly what LILCO does in its Testimony. For instance, the first three pages of the allegedly offensive County Testimony is nothing more than a survey of the basic literature on which the County witnesses' opinions are based. Likewise, the LILCO Testimony is replete with discussion of the disaster literature and the LILCO witnesses' own interpretations of that literature (including, as noted above, testimony and

literature that could have been presented at the earlier role conflict hearing). See e.g., LILCO Testimony at 9-25.

The next seven pages of the County Testimony at issue discusses why the position taken by LILCO on the role conflict issue is defective. By the same token, the LILCO Testimony addresses the positions of the County's present and past witnesses, and further discusses why the County's past and present witnesses are wrong and why LILCO's interpretation of the literature should be accepted instead. See e.g., LILCO Testimony at 24 ("Suffolk County has drawn a conclusion, based on the fact that people care about their families and fear radiation and on their reading of early disaster research and role theory literature. We have a contrary conclusion"); LILCO Testimony at 33 ("Q. But the Intervenors will claim that radiological emergencies are different."); LILCO Testimony at 34-35 ("Earlier in these hearings LILCO . . . and Suffolk County witnesses discussed several publications that, on the surface, appeared to reveal role abandonment by hospital workers during the Three Mile Island accident. . . . These publications do not, however, reveal role abandonment by emergency workers during the Three Mile Island accident."); LILCO Testimony at 36 ("Suffolk County witnesses have also pointed to a publication by the Pennsylvania National Guard . . . as evidence of role abandonment by national guardsmen"); LILCO Testimony at 46 ("Q. Suffolk County's witnesses argue that emergency planners should use opinion polls in planning. What is your opinion?"). Numerous

other examples of LILCO attempts to rebut the County's prior testimony, either explicitly or implicitly, abound.

As before, the Governments do not take issue with the propriety of LILCO's attempts to rebut the County's prior testimony and to place its own prior testimony in the best light. Given the fact that this issue was litigated over four years ago, and that the record of the entire emergency planning proceeding is extremely voluminous, it makes sense for the parties to crystallize their position in a single piece of testimony. Furthermore, a certain amount of repetition of previous testimony is unavoidable because the issue of role conflict among school bus drivers cannot be discussed in a vacuum. What is repugnant, however, is LILCO's tactic of attempting to have this Board apply different standards to the County's Testimony than are applied to LILCO's own testimony. This tactic cannot be accepted by the Board.

b. Disaster Research Center Material

In another brazen attempt to deny the County an opportunity to discuss matters addressed in LILCO's own testimony, LILCO also moves to strike certain County Testimony which discusses a chapter of a recent book by a former LILCO witness, Russell Dynes. While conceding that the book was only published recently, LILCO seeks to strike the testimony on the ground that the book addresses the same data from the Disaster Research Center that was discussed in LILCO's 1983 testimony.

See LILCO Testimony at 9-10. LILCO, however, cites and quotes from the very same book chapter for the purpose of discussing the same Disaster Research Center data that it says the County is precluded from discussing. See LILCO Testimony at 11-12. The brazenness with which LILCO makes this argument would be incredible if it were not there for the reader to see.

It is the County's position that both parties are entitled to cite and draw conclusions from the book chapter at issue. What is astounding is LILCO's assertion that it can cite the book chapter, but the County cannot.

8. Chernobyl

In yet another example of LILCO's efforts to foreclose any County discussion of matters that LILCO itself advances, LILCO seeks to strike references in the County's Testimony to the accident at Chernobyl and the effect the accident has had in increasing the likelihood that LILCO's bus drivers would resolve their role conflict by attending to their families at the expense of the role which LILCO has unilaterally assigned to them. See LILCO Motion at 10-11. Specifically, the County's witnesses make the point that the Chernobyl accident has raised even further the public's concerns about the effects of a nuclear accident. As a result of this increased concern, the school bus drivers are even more likely to believe that their families may be in danger and thus would resolve their role conflict in favor of attending to the needs of their families rather than the implementation of

LILCO's Plan. County Testimony at 42-43. That discussion is plainly relevant to the issue at hand.^{4/}

LILCO, however, claims that Chernobyl was already litigated in the reception center proceeding. In fact one aspect of it was. But the issue there was whether the heightened concern arising from the Chernobyl accident would make people more likely to seek monitoring at LILCO's reception centers. The behavior at issue here is different -- that is, whether bus drivers are even more likely to perceive that their families are at risk and therefore resolve their role conflict in favor of their families. Thus, the issue has never before been litigated before this Board. In any event, in the absence of a decision from the Board on the reception center hearing, the parties are not barred by the doctrine of res judicata from addressing the matter of Chernobyl again.

Finally, LILCO once again fails to point out that its own testimony contains two pages addressing Chernobyl. See LILCO Testimony at 37-37. Thus, LILCO leaves it to the Board and the parties to figure out why its discussion of Chernobyl is permissible while the County's is not.

^{4/} Indeed, it is addressed in response to the question of whether any events had taken place since the County's 1982 bus driver survey which would increase the likelihood that bus drivers would not implement LILCO's Plan because of role conflict. See County Testimony at 42. One such event, among others, is Chernobyl.

9. Signed Bus Driver Statements Refusing to Implement LILCO's Plan

LILCO also seeks to strike references in the County's Testimony to the fact that 235 of the school bus drivers on whom LILCO relies have signed statements to the effect that they will not drive buses in a Shoreham emergency. This testimony is relevant for a number of reasons. First, it is a direct statement by the workers that LILCO relies upon that they will not, in fact, respond as LILCO expects. What could be more relevant than statements from those workers regarding their response?

Second, as stated by the County witnesses, the statements, which were made publicly and signed by the bus drivers, demonstrate that there is very little social pressure acting on the school bus drivers to drive the buses in an emergency. See County Testimony at 19.^{5/} Third, they are further evidence of the great concern on Long Island, including among school bus drivers, about the consequences of a Shoreham accident, which in turn will be a factor in how their role conflict is resolved. See County Testimony at 43.

LILCO, however, claims that the statements should not be admitted for "policy" reasons. Specifically, LILCO, citing an answer to one of LILCO's interrogatories, accuses the County of playing a role in the preparation of the statements and concludes

^{5/} Thus, there is little of the "external motivation" cited by Dr. Lindell as a reason why he thinks the bus drivers will respond. See LILCO Testimony at 20-21.

that the County has attempted to "sabotage" its emergency planning. Here, LILCO is grasping at straws and making accusations for which it has no evidence. While counsel for the County was in fact consulted by members of the public regarding the statements, the statements were not instigated by the County or collected by the County. Rather, the statements were conceived and collected by concerned members of the public without County instigation or prodding. LILCO has a difficult time accepting that the vast majority of the population on Long Island oppose Shoreham and that members of the public might take steps to further that opposition, but that is a fact.

LILCO's argument that the statements are inherently unreliable is also unfounded. To the extent that the statements constitute hearsay, hearsay is generally admissible in NRC proceedings. LILCO asserts, however, that not one of the County's witnesses can attest to the reliability of the bus driver statements. That is not true. Members of the County's school administrator panel (who sponsor a separate piece of testimony on Contention 25.C) can in fact offer insight into the reliability and origin of the bus drivers statements. And, as has repeatedly been the case in these proceedings, the role conflict panel is entitled to rely upon the testimony of other witnesses to draw their own conclusions. Thus, if LILCO has questions about the reliability of the statements, it may question the school administrator panel on the matter.

Finally, LILCO once again fails to inform the Board that its own Testimony addresses the signed statements. See LILCO Testimony at 47-48. Thus, LILCO has been afforded and accepted the opportunity to speak to the significance and validity of the statements.

10. Miscellaneous LILCO Objections

a. The Contention

LILCO moves to modify Contention 25.C as set out in the County Testimony by striking the preamble to the contention, as well as subparts 1, 2, 3, and 4. LILCO Motion at 13. The County does not agree that the preamble should be stricken. As with all of the Governments' contentions, the preamble is an integral part of the contention and is directly pertinent to all of the subparts below it, including subpart C.

The County also does not agree that subpart 1 should be stricken. Early dismissal of the schools is still an option in the LILCO Plan which LILCO expects the school bus drivers to perform and thus is within the scope of this proceeding. The County agrees that subparts 3 and 4 are not at issue and they are voluntarily withdrawn.

b. The Usefulness of Polls

LILCO also seeks to strike the testimony of the County's witnesses on the usefulness of Professor Cole's new survey data in predicting what might happen in a future

emergency. This brief paragraph is objected to by LILCO because, as LILCO sees it, it says nothing that Professor Cole has not stated before about the usefulness of survey data. That assertion is simply not true, however, particularly in the case of footnote 36 which is part of the testimony at issue.

Moreover, LILCO's own witnesses address the very same issue in their own testimony. See LILCO Testimony at 46-47 ("Q. Suffolk County's witnesses argue that emergency planners should use opinion polls in planning. What is your opinion?"). The LILCO Testimony also includes an attachment (Attachment J) which contains LILCO's prior testimony on the issue. LILCO cannot seek to have the County's testimony stricken while at the same time retaining its own testimony on the very same issue.


c. The Nature of the Hazard

Finally, LILCO objects to testimony in footnote 38 on page 59 of the County's Testimony on the ground that the footnote attempts to relitigate the unique nature of radiation. See LILCO Motion at 14. This is a mischaracterization of the County's Testimony. In fact, the purpose of the footnote is to discuss one of the reasons why the survey data compiled by LILCO is not relevant to the issue of what school bus drivers would do in a radiological emergency. The issue raised by LILCO goes to the weight of the testimony, not its admissibility.


CONCLUSION

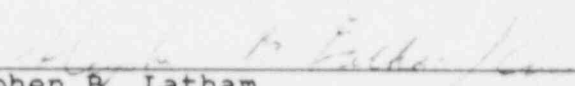
For the foregoing reasons, LILCO's Motion should be denied. To the extent any County Testimony is stricken, similar LILCO Testimony should also be stricken.

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April 27, 1988

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USNRC

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(Shoreham Nuclear Power Station,)
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Docket No. 50-322-OL-3
(Emergency Planning)

CERTIFICATE OF SERVICE

I hereby certify that copies of GOVERNMENTS' RESPONSE TO LILCO'S MOTION TO STRIKE SUFFOLK COUNTY'S TESTIMONY REGARDING ROLE CONFLICT OF SCHOOL BUS DRIVERS; GOVERNMENTS' RESPONSE TO LILCO'S AND THE NRC STAFF'S MOTIONS TO STRIKE PORTIONS OF DIRECT TESTIMONY ON BEHALF OF SUFFOLK COUNTY REGARDING THE EMERGENCY BROADCAST SYSTEM CONTENTION, and GOVERNMENTS' RESPONSE TO LILCO'S MOTION TO STRIKE PORTIONS OF SUFFOLK COUNTY'S TESTIMONY RELATING TO LILCO'S SCHOOLS EVACUATION PROPOSAL have been served on the following this 27th day of April, 1988 by U.S. mail, first class, except as otherwise noted.

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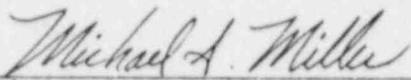
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