

DOCKETED
USNRCUNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'88 MAY -3 P6:36

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 RESPONSE TO LILCO
MOTION TO STRIKE TESTIMONY OF COLE ET AL.

On April 20, 1988, LILCO moved to strike portions of the Testimony of Stephen Cole, Ralph H. Turner, and Alan H. Barton on the Remand of Contention 25.C.--Role Conflict of School Bus Drivers dated April 13, 1988 ("Cole Testimony"). The general basis for LILCO's motion is that the Cole testimony is repetitious and is an attempt to revisit issues which have been decided. The particular reasons given by LILCO, and the Staff responses, are set forth in the stated in LILCO's motion numerical sequence as follows:

1. Motion at 2-3: The Cole testimony presents "background" material on role conflict theory that the Board has already discussed in the PID. Moreover, it constitutes an impermissible supplement to Intervenors' 1983 testimony. Additionally, there is a paragraph concerning the quality of role performance, which is outside the scope of the remand issue. The Staff agrees with LILCO's reasons; this testimony should be stricken.

2. Motion at 3-4: Intervenors raise the point that there is a difference between natural and technological disasters which would affect

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people's response. This point has been previously raised and also is beyond the narrow issue on remand. The Staff agrees.

3. Motion at 4-5: The testimony refers to LILCO's credibility which has been previously litigated and decided. The Staff supports the striking of this testimony.

4. Motion at 5-6: This portion refers to telephone overload, a subject that was dismissed at the contention stage. The Staff agrees that this is a nonlitigable issue and the testimony should be stricken.

5. Motion at 6: The testimony attempts to relitigate the fear of radiation issue. This issue was decided by the Board in the PID. To the extent that the testimony refers only to fear of radiation, the Staff agrees that it is cumulative. However, the first paragraph on page 54 of the testimony appears also to address the fireman survey and should not be stricken.

6. Motion at 7: The references made to OL-5 Board's decision are legal argument, not testimony, and they are also irrelevant. The Staff supports striking the testimony since it is far beyond the remanded issue.

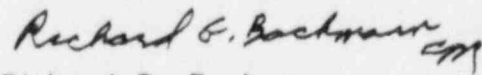
7. Motion at 7-10: The discussion of sociological literature and DRC data is improper and untimely rebuttal to LILCO's 1983 testimony. The Staff agrees that this is an attempt to relitigate old issues and should be stricken.

8. Motion at 10-11: This testimony, concerning increased fear of radiation due to Chernobyl, was previously litigated in the reception center hearing. The Staff supports striking the testimony for the reason stated.

9. Motion at 11-13: The testimony concerning statements signed by school bus drivers should be rejected on policy grounds since Intervenor's are trying to sabotage planning efforts. The Staff agrees this testimony should be stricken, but on the grounds that it is unreliable hearsay.

For those portions of the Motion not noted above, the Staff neither supports nor opposes striking the testimony.

Respectfully submitted,



Richard G. Bachmann
Counsel for NRC Staff

Dated at Rockville, Maryland
this 27th day of April 1988