

DOCKETED
USNRC

UNITED 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-OI-3
)	(Emergency Planning)
(Shoreham Nuclear Power Station,)	
Unit 1))	

NRC STAFF RESPONSE TO LILCO'S MOTION
TO STRIKE DIRECT TESTIMONY OF DAVID T. HARTGEN

On April 20, 1988, LILCO filed its Motion to Strike Direct Testimony of the State of New York's Witness David T. Hartgen Regarding Hospital Evacuation Time Estimates ("Motion"). In its Motion LILCO moved to strike portions of the Direct Testimony of David T. Hartgen, Ph.D, P.E., on Behalf of the State of New York Regarding Hospital Evacuation Time Estimates ("Hartgen testimony"), filed April 13, 1988. For the reasons discussed below, the Staff supports LILCO's Motion.

LILCO provides three reasons for striking portions of the Hartgen testimony:

1. The testimony seeks to reopen previously litigated issues concerning the assumptions which form the bases of the special facility and hospital ETEs. This is beyond the scope of the remanded hospital ETE issue.

2. The testimony asserts that possible future changes in the number of evacuees or in resources make the ETEs inaccurate. Speculation about future changes is not required by the regulations.

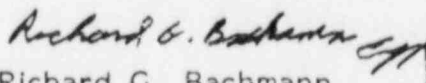
8805050018 880427
PDR ADDCK 05000322
G PDR

3. The testimony seeks to litigate minute planning details, which is not required by the regulations.

The Staff agrees with the reasons given by LILCO for striking the portions of the Hartgen testimony. It is clear that this Board has recognized that traffic in the EPZ will be congested throughout an evacuation, and that traffic speeds take the congestion into account. See PID at 836-37. Moreover, the Board has also noted that emergency planning is an ongoing process and that it does not need to inquire into the details of implementing procedures. Id. at 653.

For the foregoing reasons, the Board should strike the specified portions of the Hartgen testimony.

Respectfully submitted,


Richard G. Bachmann
Counsel for NPC Staff

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