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USNRC

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'88 MAY -3 P6:37

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'S  
MOTION TO STRIKE TESTIMONY OF BRODSKY ET AL.

On April 18, 1988, LILCO filed its Motion to Strike Testimony of Brodsky Et Al. ("Motion"), which seeks to strike portion of the Direct Testimony of Bruce G. Brodsky, Edward J. Doherty, Howard M. Koenig, Nick F. Muto, Robert W. Petrilak, Anthony R. Rossi, J. Thomas Smith, and Richard N. Suprina on Behalf of Suffolk County Regarding Contention 25.C, dated April 13, 1988 ("Brodsky testimony"). LILCO's Motion states that (1) the testimony seeks to impermissibly broaden the issue of the availability of bus drivers, (2) the witnesses are not competent to sponsor portions of the testimony and (3) the testimony is a challenge to the regulations. The Staff is in agreement with LILCO that the specified portions of the testimony are inadmissible and should be stricken.

In its Order of December 30, 1987 <sup>1/</sup>, this Board clearly stated the limits of the issue: The basic issue to be explored by the Board is whether, in light of the potential for role conflict, a sufficient number of school bus drivers can be relied upon to perform emergency evacuation duties. In its Order of February 23, 1988 <sup>2/</sup>, the Board set further limits on the scope of the proceeding. See February 23rd Order at 2-3.

Without repeating in detail the numerous portions of the Brodsky testimony which LILCO seeks to strike, it is obvious that the testimony goes far beyond the boundaries set by the Board. The County's witnesses have, for example, testified on the number of buses available, in direct contradiction to the Board's Order of February 23rd. See Brodsky testimony at 34-39. Moreover the impermissible portions of the testimony so permeate the document that it is virtually impossible to separate out the admissible portions.

Hence the Staff believes this testimony should be stricken in its entirety.

Respectfully submitted,

*Richard G. Bachmann*

Richard G. Bachmann  
Counsel for NRC Staff

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

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- <sup>1/</sup> Memorandum and Order (Ruling on Applicant's Motion of October 22, 1987 for Summary Disposition of Contention 25.C Role Conflict of School Bus Drivers).
- <sup>2/</sup> Memorandum and Order (Ruling on LILCO Motion in Limine and Motion to Set Schedule).

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO LILCO'S MOTION TO STRIKE TESTIMONY OF BRODSKY ET AL.", "NRC STAFF RESPONSE TO LILCO'S MOTION TO STRIKE DIRECT TESTIMONY OF DAVID T. HARTGEN", "NRC STAFF RESPONSE TO LILCO MOTION TO STRIKE TESTIMONY OF COLE ET AL.", "NRC STAFF RESPONSE TO LILCO'S MOTION TO STRIKE DIRECT TESTIMONY OF CHARLES G. PERRY, III AND GREGORY C. MINOR REGARDING LILCO'S EMERGENCY BROADCAST SYSTEM" AND "NRC STAFF RESPONSE TO INTERVENORS' MOTION TO STRIKE A PORTION OF LILCO'S TESTIMONY" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 27th day of April 1988.

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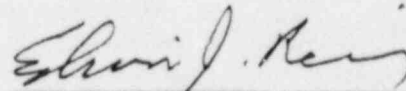
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