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LAWRENCE COE LANPHER
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May 10, 1988

By Hand

James P. Gleason, Chairman
Dr. Jerry R. Kline
Mr. Frederick J. Shon
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Docket No. 50-322-OL-3

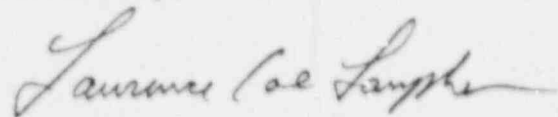
Gentlemen:

Late yesterday, LILCO's counsel wrote to the Board concerning "EBS" and "Hearing Schedule" matters. We will be prepared to address these matters during the conference. However, one matter needs to be clarified at the outset.

On the "Hearing Schedule" issue, LILCO has not accurately portrayed the pertinent facts. The County has not urged five weeks for trial of the three remand issues; the Governments' schedule anticipated 14 trial days. Further, LILCO omitted to state that the schedule proposed by the County regarding the schools issue was caused by witness availability difficulties early in the trial period. That is why the County proposed that EBS (assuming there is an issue to be heard) go first, followed by hospital evacuation and school.

There are three letters bearing on the parties' scheduling efforts: May 3 from the County to LILCO; May 4 from LILCO to the County; and May 9 from the County to LILCO. Copies of those letters are attached.

Sincerely,



Lawrence Coe Lanpher

8805170240 880510
PDR ANOCK 05000322
G PDR

cc: Counsel
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D503

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MICHAEL S. MILLER
(202) 778-9022

May 3, 1988

BY TELECOPY

James N. Christman, Esq.
Hunton & Williams
P.O. Box 1535
707 East Main Street
Richmond, Virginia 23212

Dear Jim:

We were informed yesterday by Judge Gleason's secretary that the conference of counsel scheduled for this Wednesday, May 4, has been rescheduled by the Licensing Board until next Tuesday, May 10. We were not provided any reason for the change.

With the prehearing conference now scheduled to take place only a few days before trial on the remand issues is scheduled to begin, we thought that it might make sense to explore the possibility of agreeing upon a trial schedule. Such a schedule would permit everyone to take into account witness availability problems, so that, if at all possible, such problems can be accommodated. In addition, an agreed-upon trial schedule would offer a degree of certainty to our own lives.

I have spoken with Rick Zahnleuter about approaching you with a proposed schedule for the remand proceeding, and he is in agreement with the schedule we are proposing. That schedule is as follows:

<u>Dates</u>	<u>Issue</u>
May 17-20	EBS (LILCO, Suffolk County and FEMA witness panels)
May 24-25	Hospital Evacuation Time Estimates (LILCO, New York State, and NRC Staff witness panels)

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James N. Christman, Esq.

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May 26-27 and June 1-2	Schools (LILCO witnesses)
June 7-8	Schools (Suffolk County school official witnesses)
June 9-10	Schools (Suffolk County role conflict witnesses)

Consistent with past practice, the above schedule contemplates a four-day hearing week, Tuesday through Friday. This would avoid weekend travel as much as possible. A normal hearing day would begin at 9:30 a.m. and last until approximately 5:00 p.m., with one-and-one-half hours for lunch. As in the past, the hearings would take place on Long Island, presumably at the Court of Claims courtroom in the New York State Office Building.

In developing this schedule, Suffolk County has assumed that the EBS issues would be part of the remanded hearings. We have just learned, however, that radio station WPLR-FM has apparently withdrawn from its agreement with LILCO to be the primary station for broadcasting emergency warnings in the event of a Shoreham accident. A copy of an April 28, 1988 story in the New Haven Register, reporting WPLR's withdrawal, is attached. In our view, WPLR's withdrawal, if true, would significantly change the posture of the EBS proceeding since, up until this time, the EBS issues have focused on the adequacy of LILCO's EBS proposal using WPLR as the primary, or trigger, broadcast station. We recognize, however, that LILCO has yet to advise the Licensing Board or the other parties of WPLR's withdrawal and the impact that such would have, in LILCO's opinion, on the upcoming hearings. Thus, the above proposal leaves intact the possibility of having to litigate the EBS issues at this time. We would expect LILCO to make clear its position on the pending EBS matters in the very near future, however, so that proper planning for the remand proceeding can proceed.

As can be seen, the above schedule is based on firm starting dates for each panel of witnesses. This approach worked quite well during last summer's reception center hearings and is desirable so that counsel and the witnesses will know exactly when each issue will be tried. As we agreed last summer, it would be understood that the witness panel dates would not be moved forward, even if the preceding panel finishes ahead of schedule, unless agreed to by the parties. Similarly, a panel would not begin later than the agreed-to date, without the agreement of the parties. In addition, if a party does not complete its cross-examination or redirect examination of a panel

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James N. Christman, Esq.
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by the time the next witness panel is scheduled to commence, cross-examination or redirect examination rights would not thereby be extinguished or limited; if such examination is to be continued, however, it would have to be structured in a way that leaves the basic schedule substantially unaffected.

It also must be understood that even if a firm schedule can be agreed to, it may not eliminate all witness availability problems. Accordingly, certain accommodations and adjustments to any schedule may be necessary to address a particular witness' unavailability or other unforeseen circumstances. For instance, one of the County's school official witnesses is presently unavailable on June 7, when the County school witnesses under the above schedule would be scheduled to appear. We believe that this matter can be resolved, but it must be recognized that certain accommodations may have to be made. However, the "firm" starting date approach worked well last summer, and we therefore believe that it should be followed here.

You will note that there are no hearings scheduled on May 31, which is the day after Memorial Day. Rather than continuing LILCO's witness panel on the school issues on May 31, we have adjusted our proposed schedule to resume the hearings on June 1; this takes into account travel problems that may arise from the Memorial Day weekend.

Similarly, under our proposal there are no hearings scheduled on June 3. We recognize that this results in a two-day hearing week, but believe that this is preferable than the alternative of beginning the County's school official witness panel on Friday, June 3, and then having to continue that panel on the following Tuesday, June 7.

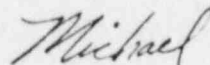
Finally, it must be recognized that in developing the above schedule, the County has proceeded without the benefit of knowing either when the upcoming FEMA-graded exercise will be scheduled (assuming that one is held), or when the Appeal Board will schedule oral argument on the Frye Board's February 1, 1988 decision (LBP-88-2). Under no circumstances would the County or the State agree to a schedule that results in the trial going forward concurrently with the exercise or oral argument before the Appeal Board.

KIRKPATRICK & LOCKHART

James N. Christman, Esq.
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Please let me have your thoughts as soon as possible with respect to the schedule set forth above.

Sincerely,



Michael S. Miller

Enclosure

cc: Richard J. Zahnleuter, Esq.
William R. Cumming, Esq.
Stephen B. Latham, Esq.
Charles A. Barth, Esq.

ice G. Hall, 89

HAYEN — A funeral service will be held today for Beatrice Hall, 89, formerly of 216 East St., who died Tuesday at a new Medical Recovery Center after a long illness. She was the wife of J. Henry Hall.

The service will be held at 11 the Miller Ward Funeral Home, 260 Bank St., Seymour. It will be in Northwest Cemetery.

Hall was born in Acushnet, Mass., May 24, 1899, daughter of Charles E. and Lizzie Gifford, and lived in New Haven for 60 years.

After her retirement, she and her husband operated the former S. Co. in New Haven.

She leaves two daughters, Elyson of Seymour and Marjorie of Prospect, a brother, Clifford of Acushnet, two children and one grandchild.

Funeral contributions may be to the Seymour Ambulance Association.

Francis J. Franco, 37

SHORE — A service will be held today for Raymond Franco, 37, 410 Wallingford Road, who died Monday at the Connecticut State Hospital in Branford after a long illness. He was the husband of Joana Franco.

The service will be at 1 p.m. in the Bailey Funeral Home, 273 S. St., Wallingford. Burial will be in Hillside Cemetery.

Franco was born in New York City March 15, 1951, son of Joseph and Rose Nocella Franco of Jersey City, N.Y. Formerly of Madison, N.J., he lived in Cheshire for years.

He worked at A&A Acoustics, in addition to his wife and partner. He leaves a son, Eric, of Cheshire; a brother, Joseph Franco of the Bronx; four sisters, Annette Torres, Lisa Valente and Lori Kennedy, all of the Bronx; and Betsy Delia Cruz of New York City.

Funeral contributions may be to the Connecticut Hospice, 51 Burton Drive, Branford.

Robert L. Malwitz, 69

SONIA — Robert L. Malwitz, 69, of 68 Rufus St. died Monday in Veterans Administration Medical Center, West Haven, after a brief illness. He was the husband of Mary Dolia Malwitz.

Malwitz was born in Chicago Oct. 25, 1918, son of the late Louis and Alma Millbrandt Malwitz and had lived 47 years in Ansonia. He was a cafeteria manager at the University of Bridgeport beginning in 1984. After that, he was assistant manager of the 14-month store in Derby for four years. He was a U.S. Army veteran of World War II.

He leaves his wife, he leaves two daughters, Richard H. Malwitz of Danbury, Pa., and Theodore Malwitz of Denver, and two sisters, Elaine Buckley and Alma Busby, both of Ansonia.

The funeral will leave Holy Trinity Memorial, 167 Walker Ave., Saturday at 9:30 a.m. A Mass of Christian burial will be celebrated in St. Peter & Paul Church at 10. Burial will be in St. Peter & Paul Cemetery, Derby.

Memorial gifts may be made to St. Peter & Paul Church Reconstruction Fund, through the funeral home.

Mary H. Maroney, 94

NEW HAVEN — Mary Heffernan Maroney, 94, of 134 W. Elm St., died Wednesday at Anders Home, Hamden, after a brief illness. She was the widow of William F. Maroney.

Mrs. Maroney was born in New Haven, Nov. 22, 1893, daughter of the late James and Nora Heffernan.

She was a member of the St. John's Eucharistic League and the New Haven Council of Cyfyllwr.

Frank A. Guarino, 73; ex-New Haven alderman

ST. AUGUSTINE, Fla. — Funeral services will be held here today for Frank A. Guarino, 73, of 14 Coquina Ave., a former New Haven alderman, who died Tuesday at Flagler Hospital. He was the husband of Alice Maria Guarino.

The service will take place at the Cathedral-Basilica. Burial will be in San Lorenzo Cemetery. The Craig Funeral Home, 1475 Old Dixie Highway, is in charge of arrangements.

Mr. Guarino was born in New Haven, Oct. 15, 1914, and lived in Florida for 15 years. A retired restaurant operator, he served on the Board of Aldermen from 1956 to 1962, representing the 5th Ward in New Haven's Hill section.

Besides his wife, he leaves a daughter, Joann Giannotta of St. Augustine; five grandchildren and two great-grandchildren.

Rose G. Esposito, 78

NORTH HAVEN — A funeral service will be held Friday for Rose Gaetano Esposito, 78, of 216 Quinnipiac Ave., who died Tuesday at St. Raphael's Hospital after a brief illness. She was the widow of Pasquale Esposito.

The funeral will leave the Marzetta & Sons Funeral Home, 592 Chapel St., New Haven at 8:15 a.m. A Mass of Christian burial will be celebrated at 9 in St. Theresa's Church, 555 Middletown Ave. Burial will be in All Saints Cemetery.

Mrs. Esposito was born in New Haven June 10, 1909, daughter of the late Marcelino and Loretta Pilla Gaetano. She lived in New Haven most of her life before moving to North Haven three years ago.

She leaves a son, James P. Esposito of North Haven; three sisters, Kate Lucibello of West Haven, Esther Gaetano of New Haven and Dorothy Amendola of East Haven; two grandchildren and two great-grandchildren.

She was predeceased by a sister, Nellie Rapino; and two brothers, Thomas and Michael Gaetano.

George J. Wieland, 63

NEW HAVEN — George J. Wieland, 63, of 45 Adeline St., died Wednesday at St. Raphael's Hospital of an apparent heart attack.

Mr. Wieland was born in New Haven, May 6, 1924, son of the late George and Anna Benoit Wieland, and was a lifelong resident of New Haven.

He recently retired from Sikorsky Aircraft, Stratford, where he had worked for more than 33 years. He was an Army veteran of World War II, and served in Europe. Mr. Wieland was a member of the West Haven Lodge of Elks and was a longtime parishioner of Sacred Heart Church.

He leaves a sister, Catherine Solovio of Milford.

The funeral will leave the Sisk Brook Funeral Home, 128 Dwight St., Friday, at 9:30 a.m. A Mass of Christian burial will be celebrated in Sacred Heart Church, at 10. Burial will be in St. Lawrence Cemetery, West Haven.

Nathan T. Cohen, 82

MIAMI BEACH, Fla. — A graveside service will be held today for Nathan T. Cohen, 82, of 1000 Michigan Ave., who died Monday at the Gem Care Center after a brief illness. He was the husband of Janet Weimer Cohen, formerly of New Haven, and father of Paul M. Cohen of Naugatuck, Conn.

The service will be held at 2:30 p.m. in the Beth David Cemetery, Dimont, N.Y. The Rubins Funeral Home, 17th St. and Alton Road, Miami Beach, is in charge of arrangements.

Mr. Cohen was born in New York City May 31, 1905, son of the late Barnett and Pauline Cohen, and lived in Florida for 15 years.

He was a retired U.S. Postal Service range mechanic.

Radio station retreats from N-alert plan

By Phil Blumenkrantz
Register Staff

NEW HAVEN — Radio station WPLR-FM has withdrawn from an agreement to be the primary station for broadcasting emergency warnings should the Shoreham nuclear power plant operate commercially.

The decision comes days before the Board of Aldermen is to consider a resolution urging WPLR to break its agreement with operators of the Shoreham plant on Long Island. It also follows an activists' boycott of WPLR's advertisers.

WPLR attorney Herbert Emanuelson Jr. said the station was not bowing to pressure.

"The issue bottomed out to whether this radio station was going to be used by (Long Island Lighting Co.) to get a license," said Emanuelson. "We are not beholden to LILCO and we're not beholden to public interest groups, either."

WPLR, however, will continue to be the plant's "trigger" for emergency warnings while Shoreham remains operating at low-power. WPLR also will broadcast emergency messages — but not as the trigger station — should Shoreham run at full power.

"We feel this is important and critical to the health and safety of all residents who live within an area that could be exposed to an accident at Shoreham," Emanuelson said in a letter to the aldermen.

The trigger receives news of emergencies directly from nuclear operators, transmitting it to other radio stations. Power plants are required to have such triggers as a condition of licensing.

Long Island Lighting Co., Shoreham's operator, announced Wednesday it had signed an agreement with WGLI-AM of Babylon, N.Y., to assume WPLR's role if Shoreham gets a license for commercial operation.

"We recognize (WPLR's) situation... and we appreciate the support," said LILCO spokesman Jim Lou. WPLR will participate in a June drill, Lou said.

The Board of Aldermen had been scheduled to vote Monday on a resolution for WPLR to abort its original agreement. Alderman Martin J. Dunleavy, co-sponsor of the resolution, was not available for comment Wednesday. Alderman Tom Harp, the other sponsor, said some sort of vote on Shoreham should still be taken, but that she would defer to Dunleavy.

Jack McKivigan, secretary of the New Haven Green Party and a spokesman for the Coalition Against Radioactive Waste, said WPLR had made a "significant compromise" but that it was "still assisting LILCO in obtaining a license."

Denise Bono, who heads the aldermanic Municipal Services Committee, disagreed.

"I don't consider (WPLR's) action a hedge," she said.

Manuel Y. Rodriguez, WPLR's general manager, in a letter dated April 11, said he would oppose a nuclear power plant being located in his hometown of Hamden, but that he would hope a "responsible broadcaster" carried any warnings.

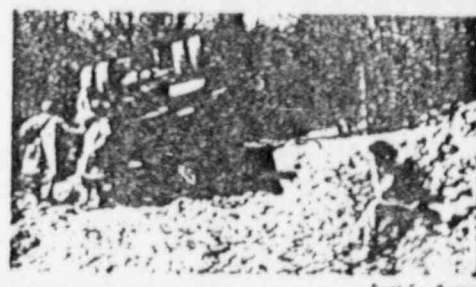
McKivigan and a few others wearing "radiation suits" confronted WPLR disc jockeys during a broadcast last week from Union Station.

Adolphe A. Rempp, 77; created meat tenderizer

MORRO BAY, Calif. (AP) — Adolphe A. Rempp, 77, creator of Adolphe's Meat Tenderizer and owner of several restaurants, died at home Tuesday.

Mr. Rempp was born in San Francisco, where he started his restaurant career at age 22 as a chef. Finding conventional liquid

CE & FIRE ROUNDUP



David Carr/Tapestry

WHEELS UP: Wallingford firefighters stand near a truck carrying foundation forms that rolled over en route to a construction site off South Turnpike Road in Wallingford Wednesday morning. Police said the truck was apparently overloaded. No one was injured.

Firefighter faces another sex charge

NORTH HAVEN — A New Haven firefighter arrested last month and charged with sexual assault and risk of injury to a minor now faces additional charges.

Michael Tammaro, 42, of 26 Fortune Drive was charged Wednesday with another count of fourth-degree sexual assault and risk of injury to a minor in an incident involving another female juvenile.

Police said the parents of the second girl came forward after reading newspaper accounts of Tammaro's arrest.

Tammaro was employed as a substitute teacher at North Haven Junior High School before his arrest. He has been suspended pending the outcome of his trial. He has also been reassigned from duty in the fire station to other kinds of work until his trial is over, according to New Haven Fire Chief John Reardon.

Tammaro was released on a promise to appear in court May 8.

He is still awaiting trial of the original charge, police said.

By Bob Kahn/Staff

Neighbors' dispute ends in violence

BEACON FALLS — A man stabbed several times in a long-standing property dispute with a neighbor remained in stable condition Wednesday at Saint Mary's Hospital in Waterbury, officials said.

State police said they found Richard Mavricz of 109 Beacon Valley Road on his property at about 7:30 p.m.

Tuesday.

His neighbor, Robert Keffer, 33, was charged with first-degree assault and was held on \$25,000 bond, police said.

Mavricz allegedly approached Keffer with a baseball bat prior to the assault, police said.

United Press International

Eagle-eyed cop nabs robbery suspect

MILFORD — The manager of Pearle Vision Center didn't have to worry too long when some eyeglass frames, valued at more than \$800, were stolen from his business Tuesday.

Police Officer Steve Stavrovsky said he saw Michael S. Perkins, 30, of 55 Harper Ave., New Haven, throw the frames down a sewer drain near Pearle Vision on the Boston Post Road. Stavrovsky recovered the frames and charged Perkins with fourth-degree larceny.

Stavrovsky said he made the arrest at 7:44 p.m. Tuesday after receiving a complaint that two men — one of them the suspect — were drinking behind a liquor warehouse next to Pearle Vision.

Police set bond at \$1,000, but a Superior Court judge released Perkins Wednesday on a promise to appear in court in May.

Andrew Zantz

Accident snarls rush hour on I-95

STAMFORD — A tractor-trailer carrying fruit juices slammed into a highway divider Wednesday morning on Interstate 95, closing the westbound lanes of the highway for six hours and creating havoc during the morning rush hour.

The truck was owned by Juice Services Inc. of Lincoln, R.I. and was driven by James R. Dennis, 23, of Providence, R.I., who was given a summons for failing to stay in his

lane, state police said.

The accident occurred about 4:22 a.m. when the truck hit the divider on the eastbound ramp in Stamford, turned on its side and spilled apple and orange juice, along with diesel fuel, on the highway.

Traffic was diverted from the highway and through downtown Stamford before it could continue toward New York, state police said.

United Press International

Cigarette is blamed for starting fire

NORTH BRANFORD — A lit cigarette but tossed in a garage trash can loaded with combustible items was the cause of a fire Tuesday night which damaged a Woodland Street home, Fire Marshal Berr Bunnell said.

Bunnell said the fire spread throughout the garage, basement, attic and parts of the upper

portion of the house at 75 Woodland St. and that the whole house sustained smoke damage.

The fire began about 10:11 p.m. and was under control at 11:09, Bunnell said. No estimate of damage has been made. There were no injuries.

Jerome James

Man sues owner and patron of bar

HUNTON & WILLIAMS

Michael S. Miller, Esq.
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I do not believe that setting a firm starting date for each panel is a good idea, nor do I agree that it "worked well last summer." Last summer there were large blocks of unused time whenever one or the other of us finished our cross-examination earlier than anticipated. It took five weeks to finish 10 days of hearing, and some of the 10 were short days (July 9 and July 22, for example). I believe that when one panel is finished, the next panel should begin immediately. As you can see from LILCO's proposed schedule, below, that means that no panel should have to wait more than half a day.

According to LILCO's proposed schedule, the role conflict issue would be heard the week of May 16, and the hospital ETE's and EBS issues would be heard the following week. The schedule LILCO proposes is the following:

Proposed Hearing Schedule

May 16-18 (or through the 19th, if necessary)	LILCO's Pole Conflict Panel (Crocker absent May 18)
May 19 or 20 (one full day)	S.Co.'s Role Conflict Panels
May 23 (through morning of 24th, if necessary)	LILCO's Hospital ETE's Panel
May 24	NYS's Hospital ETE's witness
May 25 (through morning of 26, if necessary)	LILCO's EBS Panel
May 25	S.Co.'s EBS Panel
May 26 p.m. (through morning of 27th, if necessary)	FEMA's EBS witness ^{1/}

^{1/} FEMA has requested that its EBS witness be heard in Washington, D.C. If the Licensing Board agrees with that request, arrangements can be made to hear FEMA's testimony in Washington on the afternoon of May 31, instead of May 26.

HUNTON & WILLIAMS

Michael S. Miller, Esq.
May 4, 1988
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May 27

NRC's Hospital ETE's witness
(only day available)

We have discussed the above schedule with counsel for the NRC and FEMA and both have agreed to its structure.

I am aware of the WPLR situation and expect to advise the Licensing Board imminently. I am not sure whether the changed situation justifies any change in the hearing schedule.

You indicate that you learned about WPLR's withdrawal as a primary EBS station from a newspaper article. Does this mean that neither you nor your client had a hand in urging the New Haven Board of Aldermen to put pressure on WPLR? This is not a mere idle question, as it may bear on some of the matters now before the Board.

Based on our experience, I expect we will not agree on all aspects of this proposal. I hope that any problems can be worked out, however. Please let us know your reaction to our proposal.

Yours very truly,

Jim Christman
James N. Christman

JNC/dlo

cc: Richard J. Zahnleuter, Esq.
Richard G. Bachmann, Esq.
William R. Cumming, Esq.

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MICHAEL S. MILLER
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May 9, 1988

BY TELECOPY

James N. Christman, Esq.
Hunton & Williams
707 East Main Street
P.O. Box 1535
Richmond, Virginia 23212

Dear Jim:

This is in response to your letter of May 4, 1988, and your views concerning the trial schedule I had proposed in my letter of May 3.

Your letter suggests that we may not be able to agree upon a trial schedule for the upcoming remand proceeding. Nonetheless, I believe that it makes sense to explore this matter fully, before tomorrow's prehearing conference. This letter therefore attempts to respond to the points raised in your May 4 letter. It also endeavors to set forth the reasons in support of the views of Suffolk County and New York State for why LILCO should agree to the trial schedule I initially proposed.

First, we disagree that the remanded schools issues should go first. In your letter, you state that "LILCO's role conflict witnesses have been holding May 16 and 17 open ever since the Board announced May 16 as the starting date." You provide no reason, however, for why LILCO's witnesses on the schools issues have assumed that they, rather than the witnesses on the other remanded issues (EBS and hospital evacuation time estimates), would testify first. The Licensing Board has never indicated that the schools issues would precede the EBS or the hospital evacuation time estimates issues. And, certainly, neither the County nor the State has agreed to the schedule you propose; in fact, prior to your May 4 letter, LILCO had never indicated that it wished to litigate the remanded schools issues first.

Furthermore, we disagree that the hearings should run five days a week, beginning on Monday, May 16. As you know, the

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James N. Christman, Esq.

May 9, 1988

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consistent practice in the Shoreham proceedings has been to have four-day hearing weeks. This avoids weekend travel, to the extent that is possible. It also provides one business day each week for meeting with witnesses to prepare for trial.

We also disagree with your views regarding setting firm starting dates for each panel of witnesses. In our opinion, this approach is highly desirable, as it permits counsel and the witnesses to know precisely when each issue will be tried. Contrary to your recollection, the firm starting date approach worked quite well during last summer's reception center hearings, and should be followed again here.

One last disagreement remains. Your letter suggests that FEMA's EBS witness might be permitted to testify in Washington, D.C. If, in fact, the EBS issues are to be part of the remanded hearings, Suffolk County and New York State would insist that the issue be tried in its entirety on Long Island.

Notwithstanding the areas of disagreement between us, it is still hoped by Suffolk County and New York State that a trial schedule acceptable to the Governments and LILCO can be reached. If, for example, LILCO's schools witnesses have scheduling problems that would prevent or make difficult their appearing at trial at any time other than the week of May 16, we are willing to discuss an arrangement that would permit LILCO's school witnesses to testify that week. It must be understood, however, that the witnesses for the State and County also have certain commitments and plans that must be accommodated. Indeed, under the schedule proposed in your May 4 letter, Suffolk County's schools witnesses would testify on May 19 or 20. At this time, however, at least six of the County's 11 schools witnesses (both the school officials panel and the role conflict panel) are unavailable to testify on either of those dates. In fact, if LILCO really intends to use only one day for cross-examining the County's schools witnesses (both panels), the only days that all witnesses would be available are June 3 and the week of June 6. It should be noted, however, that on a panel basis, the County's schools witnesses are available to testify on the following dates: school officials panel -- May 25, 26, and 31 and June 1, 3, 6, 8 and 10; role conflict panel -- June 3 and week of June 6.^{1/}

^{1/} Of these dates, however, May 31 is the day after Memorial Day, and could therefore involve traveling problems arising from the Memorial Day weekend. And June 6 is a Monday, which would fall outside the four-day hearing week the County and State will ask the Board to adopt.

KIRKPATRICK & LOCKHART

James N. Christman, Esq.

May 9, 1988

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The only other witness availability problem presently known by the Governments involves one of the County's EBS witnesses, who is unavailable on May 25-27 and June 8-10. Again, this would conflict with LILCO's proposed trial schedule, but not with the schedule set forth in my May 3 letter.

Based on the foregoing, it would appear that the trial schedule initially proposed by me is workable, but that your schedule poses a number of problems. Thus, I urge you to reconsider your opposition to our proposed schedule. As noted, however, we would be willing to amend our proposal, to take into account the scheduling problems that may confront LILCO's witnesses. Perhaps the best way to proceed at this point is to discuss these matters later today. I am available for a telephone conference at your convenience.

In closing, I find it necessary to raise two other points. First, as you know, late in the day on Friday, May 6, we received LILCO's Motion for Leave to File Supplemental Testimony on the remanded schools issues. The filing is most irregular and may impact the schedule for trial in our opinion. We assume that this matter may be discussed at the prehearing conference tomorrow. If the Board accepts LILCO's new testimony, it may be necessary at a minimum for the County and State to increase the time needed for questioning LILCO's schools witnesses.

Second, it must be recognized that the trial schedule we have proposed assumes that the EBS issues will be litigated along with the other remanded issues. In my May 3 letter, I requested LILCO to advise the Board and the parties of its views concerning the reported withdrawal of WPLR-FM as the primary, or trigger, broadcast station in LILCO's proposed EBS network. To date, the only response you have made indicated that as of May 4, LILCO expected to advise the Board "imminently" of the WPLR situation. In addition, you suggested that WPLR's withdrawal may not justify any change in the hearing schedule.

To my knowledge, LILCO still has not advised the Board of the WPLR situation. Further, I simply cannot understand how WPLR's withdrawal, if true, would not require changes in the hearing schedule.

KIRKPATRICK & LOCKHART

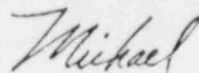
James N. Christman, Esq.

May 9, 1988

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As previously noted, I am available to discuss any or all of the matters raised in this letter at any time prior to tomorrow's prehearing conference.

Sincerely,



Michael S. Miller

cc: Richard J. Zahnleuter, Esq. (by telecopy)
William R. Cumming, Esq. (by telecopy)
Richard G. Bachmann, Esq. (by telecopy)
Stephen B. Latham