

7182

09/28/88

DOCKETED  
US-NRC

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'88 SEP 29 P3:08

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

OFFICE OF THE  
DOCKETING  
BRANCH

In the Matter of  
LONG ISLAND LIGHTING COMPANY  
(Shoreham Nuclear Power Station,  
Unit 1)

}  
} Docket No. 50-322-0L-3  
} (Emergency Planning)

NRC STAFF RESPONSE TO LILCO'S  
MOTION FOR ENLARGEMENT OF BRIEFING TIME

On September 27, 1988, the Appeal Board ordered that replies to Intervenor's' September 27, 1988 "Brief On Bifurcated Appeal from the September 23, 1988 Concluding Initial Decision in LEP-88-24" ("Intervenor's' Brief") should be in the hands of the Appeal Board not later than Friday September 30, 1988. On September 28, the Applicant filed a request for extension of time to respond to Intervenor's' Brief citing the importance of the issue being briefed and absence of a need for expedition requiring a three day response time.

The NRC Staff does not object to the extension requested by Applicant; similar reasons for extension apply to the Staff. Moreover, the Staff believes that when a party is accorded an extension of time, as a matter of fairness other parties filing simultaneous or subsequent filings should be accorded a like extension. We recognize that this is not the holding in Orders issued in Florida Power & Light (St. Lucie Plant, Unit No.1), Docket 50-335 OLA, dated May 24, 1988 (unpublished) and Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Station) Docket 50-271 OLA, dated June 23, 1987 (unpublished). The holding in

BB10030427 880928  
PDR ADOCK 05000322  
G PDR

2507

these cases, however, should be reconsidered, particularly to the extent that such holdings would apply to the NRC Staff.

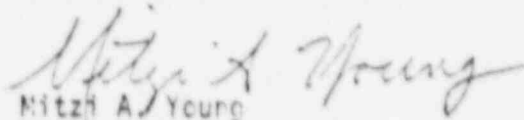
The special position of the NRC Staff in NRC licensing proceedings is recognized in the Commission's Rules of Practice customarily providing the Staff with a modest additional period for responses to motions, etc. The Commission specifically identified the special status of the IPC Staff in NRC proceedings as the reason for according the Staff additional time:

"The amendments to Part 2 allow the regulatory staff an opportunity to consider all matters and positions taken by other parties before finalizing its position on various questions presented during a proceeding. The affording of this opportunity to the staff is considered appropriate in view of its duty to represent the public interest in Commission adjudicatory proceedings and to assure the development of an adequate decisional record."

37 Fed. Reg. 15127, 15129 (July 28, 1972).

The foregoing establishes "good cause" for according the Staff additional time to file its responses to the positions of other parties and should be dispensed with only if there is a special reason for particularly expediting the Staff's position. We do not believe that to be the case in this instance. Accordingly, the Staff requests that, if an extension of time is granted to Applicant, a similar extension be granted to the NRC Staff.

Respectfully submitted,

  
Mitzel A. Young  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 28th day of September 1988

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of

LONG ISLAND LIGHTING COMPANY

(Shoreham Nuclear Power Station,  
Unit 1)

}  
Docket No. 50-322-OL-3  
(Emergency Planning)  
}

CERTIFICATE OF SERVICE

I hereby certify that copies of "NPC STAFF RESPONSE TO LILCO'S MOTION FOR ENLARGEMENT OF BRIEFING TIME" 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 28th day of September 1988.

Christine N. Kohl, Chairman\*  
Administrative Judge  
Atomic Safety and Licensing Appeal  
Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Dr. W. Reed Johnson\*  
Administrative Judge  
Atomic Safety and Licensing Board  
Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Philip McIntire  
Federal Emergency Management  
Agency  
26 Federal Plaza  
Room 1349  
New York, NY 10278

Fabian G. Palomino, Esq.  
Special Counsel to the Governor  
Executive Chamber  
State Capitol  
Albany, NY 12224

Joel Blau, Esq.  
Director, Utility Intervention  
Suite 1020  
99 Washington Avenue  
Albany, NY 12210

Jonathan D. Feinberg, Esq.  
New York State Department of  
Public Service  
Three Empire State Plaza  
Albany, NY 12223

W. Taylor Reveley III, Esq.  
Donald P. Irwin, Esq.  
Hunton & Williams  
707 East Main Street  
P.O. Box 1535  
Richmond, VA 23212

Alfred L. Nardelli, Esq.  
New York State Department  
of Law  
120 Broadway  
Room 3-118  
New York, NY 10271

Stephen P. Latham, Esq.  
Twyomey, Latham & Shea  
Attorneys at Law  
33 West Second Street  
Riverhead, NY 11901

Atomic Safety and Licensing\*  
Board Panel (1)\*  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Atomic Safety and Licensing  
Appeal Panel (8)\*  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Martin Bradley Ashare, Esq.  
Suffolk County Attorney  
H. Lee Dennison Building  
Veteran's Memorial Highway  
Hauppauge, NY 11786

Anthony F. Earley, Jr.  
General Counsel  
Long Island Lighting Company  
175 East Old Country Road  
Hicksville, NY 11801

Dr. Monroe Schneider  
North Shore Committee  
P.O. Box 231  
Wading River, NY 11792

William R. Cumming, Esq.  
Office of General Counsel  
Federal Emergency Management Agency  
500 C Street, SW  
Washington, DC 20472

Dr. Robert Hoffmar  
Long Island Coalition for Safe Living  
P.O. Box 1355  
Massapequa, NY 11758

Herbert H. Brown, Esq.  
Lawrence Coe Lanpher, Esq.  
Karla J. Letsche, Esq.  
Kirkpatrick & Lockhart  
South Lobby - 9th Floor  
1800 M Street, NW  
Washington, DC 20036-5851

Jay Dunkleberger  
New York State Energy Office  
Agency Building 2  
Empire State Plaza  
Albany, NY 12223

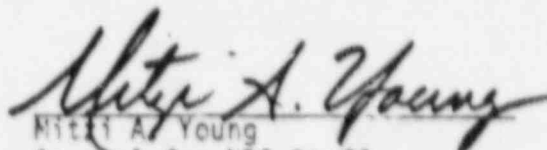
Spence W. Perry, Esq.  
General Counsel  
Federal Emergency Management  
Agency  
500 C Street, S.W.  
Washington, DC 20472

Dr. V. Reed Johnson  
115 Falcon Drive, Colthurst  
Charlottesville, VA 22901

Ms. Nora Bredes  
Shoreham Opponents Coalition  
195 East Main Street  
Smithtown, NY 11787

Barbara Newman  
Director, Environmental Health  
Coalition for Safe Living  
Box 944  
Huntington, New York 11743

Docketing and Service Section\*  
Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

  
Miti A. Young  
Counsel for NRC Staff

In addition, the Staff plans to hand deliver a copy to Judge Kohl's office and to send telecopies to Mr. Lanpher, Mr. Palomino and Mr. Irwin on the morning of September 29, 1988.