

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
LONG ISLAND LIGHTING COMPANY ) Docket No. 50-322  
(SHOREHAM NUCLEAR POWER STATION) )

EXEMPTION

I.

Long Island Lighting Company (the licensee) is the holder of Facility Operating License No. NPF-36 which authorizes operation of the Shoreham Nuclear Power Station (SNPS). The facility is a boiling water reactor and is currently at a power level not to exceed 121.8 megawatts thermal (five percent of full rated power) at the licensee's site located in Suffolk County, New York. This license provides, among other things, that it is subject to all rules, regulations and orders of the Commission now or hereafter in effect.

II.

10 CFR 50.54(w), requires that each commercial power reactor licensee shall, by June 29, 1982, take reasonable steps to obtain on-site property damage insurance available at reasonable costs and on reasonable terms from private sources or to demonstrate to the satisfaction of the Nuclear Regulatory Commission (the Commission) (NRC) that it possesses an equivalent amount of protection covering the facility, provided, among other things, that this insurance must have a minimum coverage limit no less than the combined total of (i) that offered by either American Nuclear Insurers (ANI) and Mutual Atomic Energy Reinsurance Pool (MAERP) jointly or Nuclear Mutual Limited

(NML); plus (ii) that offered by Nuclear Electric Insurance Limited (NEIL), the Edison Electric Institute (EEI), ANI and MAERP jointly, or NML as excess property insurance. On August 5, 1987, the NRC amended this regulation to require a minimum coverage limit for the reactor station site of either 1.06 billion dollars or whatever amount of insurance is generally available from private sources, whichever is less (52 FR 28963).

### III.

The licensee prior to this change was required to carry the full amount of on-site primary property damage insurance coverage (620 million dollars). By letter dated November 23, 1987, the licensee requested an exemption to reduce the amount of primary property damage insurance from the full amount of 1.06 billion dollars to 337 million dollars. The licensee states that the requirement to fully comply with the regulation is an undue financial hardship and burden. Maintaining a lower level of primary property damage insurance will reduce the capital cost for SNPS by 2.4 million dollars a year until LILCO is authorized to operate SNPS at power levels greater than five percent of full rated power. By letter dated November 23, 1987 the licensee provided its technical justification that 337 million dollars of primary property damage insurance provides an adequate level of coverage to clean up or return the SNSP plant to a condition ready for decommissioning, if necessary, following an accident.

The NRC may grant exemptions from the requirements of the regulations which, pursuant to 10 CFR 50.12(a) are (1) authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security, and (2) present special circumstances.

10 CFR 50.12(a)(2)(iii) describes the special circumstances in that the exemption would provide relief from this regulation if compliance would result in undue hardship or costs in excess of those contemplated when the regulation was adopted, or that costs are significantly in excess of those incurred by others similarly situated.

By letter dated November 23, 1987, the licensee requested a schedular exemption from one of the requirements of 10 CFR 50.54(w)(1) as amended August 5, 1987 (52 FR 28963). The licensee has requested that it not be required to carry the full amount (1.06 billion dollars) of the required on site property insurance until such time as it is authorized to operate the SNPS at a power greater than five percent of full power. This limit is based on LILCO's current low power operating license issued July 3, 1985. Issuance of a full power license for SNPS has been delayed due to the unprecedented litigation of emergency planning issues.

LILCO contends that imposition of the full amount of required on-site damage insurance prior to when it is authorized to operate SNPS at power levels greater than five percent of full rated power would result in the following:

1. Undue hardship based on New York State cost accounting requirements,
2. Cost in excess of those contemplated when the regulation was adopted based on its current 121.8 MW(t) operating limit, and;
3. The costs are significantly in excess of those incurred by others similarly situated (each operating at 40 MW(e)).

LILCO has requested that in lieu of the current required coverage, that it

be allowed to carry 337 million dollars of on-site insurance. LILCO calculated this amount based on the results and methods from NUREG/CR-2601 used to derive the current 1.06 billion dollar required amount.

#### IV.

The staff has reviewed the licensee's request for the schedular exemption and finds that requiring the licensee to carry the full amount of on-site property damage insurance coverage, 1.06 billion dollars, as required by 10 CFR 50.54(w)(1), results in undue hardship, costs in excess of those contemplated when the regulation was adopted and costs in excess of those incurred by others similarly situated.

The staff also concludes that issuance of this schedular exemption will have no significant effect on the safety of the public or the plant. Further, the licensee has shown special circumstances as described in the staff's supporting safety evaluation to support the schedular exemption.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of this schedular exemption will have no significant impact on the environment (May 19, 1988, 53 FR 17992).

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12(a)(1) the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. As indicated above, compliance with 10 CFR 50.54(w)(1) would result in undue costs considering the current operational restrictions placed on the Shoreham facility, and that the cost is significantly in excess of the relative cost incurred for similar insurance by the other facilities operating at

similar power ranges covered by the rule. Thus, special circumstances as described in 50.12(a)(2)(iii) exist. Consequently, the exemption falls within special circumstances determined by the Commission to be sufficient to support the exemption. Therefore, the Commission hereby approves the following exemption:

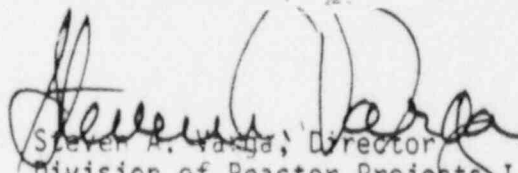
The licensee is exempt from the requirement to carry on-site property damage insurance coverage in the full amount called for by 10 CFR 50.54(w)(1) until such time that an authorization to operate SNPS at power levels greater than five percent is granted, provided that the licensee maintain such on-site property damage insurance in an amount not less than 337 million dollars.

The applicant's letter dated November 23, 1987, and the NRC staff's letter and Safety Evaluation dated May 31, 1988, related to this action are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, DC, and the Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786.

The exemption is effective from August 5, 1987.

Dated at Rockville, Maryland, this 31st day of May 1988.

FOR THE NUCLEAR REGULATORY COMMISSION

  
Steven A. Wada, Director  
Division of Reactor Projects I/II  
Office of Nuclear Reactor Regulation