

June 3, 1988

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)

LONG ISLAND LIGHTING COMPANY)

(Shoreham Nuclear Power Station)
Unit 1))

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

STATE OF NEW YORK'S RESPONSE TO LILCO'S
SECOND SET OF INTERROGATORIES REGARDING CONTENTIONS 1-2, 4-8, AND 10

This pleading responds to the Board's oral ruling on May 10, 1988 requiring the State of New York to provide additional answers to LILCO's Interrogatories 50-64, 67-74, 76-83, 85-105, 108, 112-113, 115-118, 120, and 122-123.

General Objections

Concerning all of these interrogatories, the State of New York asserts the following general objections that were previously made in the Governments' Objections to LILCO's Second Set of Interrogatories Regarding Contentions 1-2, 4-8, and 10 (April 20, 1988), and were not overruled by the Board:

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1. The State of New York objects to LILCO's Interrogatories to the extent that they call for speculation, which the State of New York is unable to provide. The counties about that LILCO seeks such information are separate governmental entities that have independent authority to determine their own actions prior to and during emergencies. Accordingly, the State of New York cannot predict what these counties would do, how they would respond, what plans they would use, or other such matters. If LILCO wants this information, it should obtain it from the counties in question. The State of New York notes that the information is as accessible to LILCO as it is to the State of New York.

2. The State of New York objects to the questions addressed to it which seek information about Suffolk County and other counties within the State. The information requested is not within the possession or control of the State and thus cannot be provided to LILCO by the State of New York.

3. The State of New York objects to LILCO's Interrogatories to the extent that they seek the identification of documents, or production of documents themselves, which are in the possession, custody or control of counties, including Suffolk County. Such counties are separate, independent governmental entities. The documents are as accessible to LILCO as they are to the Governments, and if LILCO wants these documents, it should obtain them from the counties in question.

Additional Responses

50. For subparts (a) through (e), whatever plans and procedures exist are contained within the New York State Radiological Emergency Preparedness Plan for Commercial Power Plants ("New York State Plan"), which speaks for itself and needs no summarization. Although the New York State Plan contains detailed county plans for each plant located in New York State except Shoreham, the New York State Plan does not contain such detailed county plans for out-of-state plants, and, therefore, is not site-specific for the plants identified in subparts (a) through (e). The New York State Plan has already been provided to LILCO.
51. a) Schenectady, Washington, Rensselaer, Columbia, Greene, Albany,
Saratoga
b) Suffolk, Nassau
c) Suffolk, Westchester, Putnam, Dutchess, Columbia
d) Washington, Rensselaer, Columbia
e) Staten Island Borough
52. The State of New York is not aware of any plans and procedures that the pertinent counties might "have, use, follow or otherwise rely upon," with the possible exception of the New York State Plan. Beyond that, the State of New York is unable to speculate, as explained in General Objections 1, 2 and 3.

53. The State of New York does not know how each such county would respond because these counties have not conducted drills or training directed to ingestion pathway and recovery and reentry responses.
54. The only responsive "training sessions, drills, and exercises . . . for an ingestion pathway and recovery and reentry response" that the State of New York is aware of are two meetings attended by a REPG representative in April 1988 regarding Yankee Rowe.
55. Yes, New York State participated in the April 1988 Yankee Rowe exercise to the extent warranted by the objectives, which have already been provided to LILCO. Through counsel, the State of New York states that the State of New York is not required by FEMA to participate in this or any exercise because FEMA has no such authority.
56. Representatives of the State Health Department, State Department of Transportation, State Department of Agriculture and Markets, State Police, State Emergency Management Office and Radiological Emergency Preparedness Group ("REPG") participated in the Yankee Rowe Exercise to the extent warranted by and corresponding to the objectives, which have already been provided by LILCO.
57. The objectives are responsive, and they have been previously provided to LILCO.
58. Rensselaer County participated in the Yankee Rowe exercise in the sense that a county representative reviewed a notification telephone call.

59. See answer to Interrogatory No. 58.

60. See answer to Interrogatory No. 54.

61. See answer to Interrogatory No. 52.

The State of New York is unable to speculate as explained in General Objections 1, 2 and 3.

62. For Indian Point only, the personnel responsible for the activities delineated in Interrogatory No. 49 are identified in the New York State Plan. For the other three plants, see Interrogatory answer 50 (b), (c) and (e). In the absence of a site-specific plan for these three plants and training of any kind, the State of New York is unable to speculate about who would be responsible, as explained in General Objections 1, 2 and 3.

63. For Indian Point only, the functions and activities of the agencies listed in subparts (a) through (f) are set forth in the New York State Plan. For the other three plants, see Interrogatory answer 50 (b), (c) and (e). It is not possible to state how these functions and activities would differ from functions and activities performed for Shoreham because, for the reasons set forth in the Governments' April 13 Objections and Offer of Proof, the State of New York has not adopted any plan or otherwise trained or planned for responding to a Shoreham emergency. Accordingly, the State of New York is in no position to provide further responsive information.

64. As explained in General Objections 1, 2 and 3, the State of New York is unable to speculate about what would prevent "other counties and other pertinent jurisdictions in New York State" from using the "plans, procedures and resources" referred to in the interrogatory. What prevents the State of New York from responding to a Shoreham accident in the same way that the State of New York might respond to an emergency at the referenced plants is that the State of New York doesn't know what plans, procedures and resources would be needed for a Shoreham accident because, for the reasons set forth in the Governments' Objection and Offer of Proof, the State of New York has not adopted any plan or otherwise trained or planned for responding to a Shoreham emergency. Accordingly, the State of New York is in no position to provide further responsive information.

67. The interrogatory appears to ask whether coordination of ingestion pathway and recovery and reentry activities has occurred among four entities (State of New York, Suffolk County, utilities, and offsite response organizations) for Millstone; then for Oyster Creek; then for Haddam Neck; then for Indian Point. The answer is that for each nuclear power plant, coordination among the four entities has not occurred.

68. Ingestion pathway and recovery and reentry responses for the listed counties are contained in each individual county plan and the New York State Plan, all of which have been previously provided to LILCO and all of which can be read by LILCO. The plans are used for each county only.

69. Nine Mile Point/Fitzpatrick: Oswego, Wayne, Cayuga, Onondaga, Madison, Oneida, Lewis, Jefferson, Ontario, Seneca

GINNA: Wayne, Monroe, Orleans, Genesee, Livingston, Ontario, Yates,
Seneca, Cayuga, Onondaga, Steuben, Wyoming, Oswego

INDIAN POINT: Orange, Putnam, Rockland, Westchester, Sullivan, Ulster,
New York City, Dutchess, Nassau, Suffolk

As explained in General Objections 1, 2 and 3, the State of New York is unable to speculate about what county plans and procedures would actually be "used, followed or otherwise relied upon by that county" or if a county does not have plans and procedures, "how they would respond."

70. Ultimate responsibility in this area is assigned to the New York State Disaster Preparedness Commission and, in turn, to the Radiological Emergency Preparedness Group, directed by James Papile.
71. With respect to (b), see General Objections 1, 2 and 3. With respect to (a) and Indian Point, the New York State Plan, including the county plans for the counties within the 50 mile EPZ, identifies persons who would "make an ingestion pathway and recovery and reentry response." With respect to (a) and Millstone, Haddam Neck and Oyster Creek, the State of New York is unable to answer because no county plans exist and no drills, exercise or training concerning an ingestion pathway and recovery and reentry response have occurred.
72. Wayne and Monroe Counties have participated in the activities set forth in subparts (a) through (f) in connection with an exercise on October 28 and 29, 1987. The New York State Plan, including the Wayne and Monroe County Plans, were used and the appropriate state and county officials identified in those plans participated. See also the chronology of

events leading up to this exercise, which has already been provided to LILCO. See answer to Interrogatory No. 76.

73. See answer to Interrogatories Nos. 72 and 76, and General Objections 1, 2 and 3.

74. The New York State Plan identifies the local offices, functions and activities of the State Department of Health, State Department of Transportation, State Department of Agriculture and Markets, State Police, State Emergency Management Organization and Radiological Emergency Preparedness Group. The New York State Plan has been provided to LILCO and can be read by LILCO.

76. As to the last sentence regarding "documents used by these counties," see General Objections 1, 2 and 3. The counties of Orleans, Genesee, Livingston, Ontario, Yates, Seneca, Cayuga, Onondaga, Steuben, Wyoming and Oswego were involved in the October '87 Ginna exercise in the sense that they received notification and communication. Wayne and Monroe Counties participated to the extent that counties in a 10 mile EPZ normally participate, as set forth in the New York State Plan, including the Wayne and Monroe County Plans, all of which have already been provided to LILCO.

77. See the chronology of events already provided to LILCO. Among other things, on 6/18/87, a meeting occurred among state and local emergency management officials. On 8/27/87, a meeting occurred among county chief executives and state officials. On 9/12/87 and 9/23/87, meetings

occurred among state officials and local personnel, including cooperative extension personnel.

78. The Wayne and Monroe County EOC was activated and remained operational. The other counties in the 50 mile EPZ did not activate an EOC, except in the sense that notification and communications were received, hence no "county operations" were directed.
79. The State of New York objects because the interrogatory is vague and calls for a legal conclusion. The State of New York, through counsel, states that 10 CFR Part 50, Appendix E, Section IV.F.1, requires that a site-specific ingestion pathway and plume EPZ demonstration must be made for each NTOL plant (including Shoreham) as a precondition to licensing above 5% power. See also GM PR-1. LILCO's counsel may analyze the applicable regulations and guidance if LILCO wishes an interpretation of applicable regulations and guidance; the State of New York has no obligation to perform such a service for LILCO.
80. See answer to Interrogatory No. 79.
81. A single Ginna exercise does not demonstrate the ability of the State of New York to respond to an emergency at other nuclear power plants because the State of New York has not drilled or trained concerning plants other than Ginna, including Shoreham. This is the best answer possible given the confusing nature of the question.

82. See answer to Interrogatory No. 79. To reiterate, the State of New York, through counsel, states that 10 CFR Part 50, Appendix E, Section IV.F.1, requires a successful ingestion pathway demonstration for Shoreham.
83. See General Objections 1, 2 and 3. The draft FEMA post-exercise report for Ginna has been returned to FEMA at FEMA's request and no final report has been provided to the State of New York.
85. The phrase "routines" applies to all counties in the state that could be involved in an emergency in an ingestion pathway EPZ capacity. It encompasses pre-exercise meetings, post-exercise meetings, discussions on radios and telephones, discussions during training, etc. The "routines" are learned and practiced by all ingestion pathway counties and are not, to the knowledge of the State of New York, embodied or compiled in any written compendium.
86. The main assumption (from which other assumptions are derived) that is unwarranted is that counties play a minor role. Counties are the primary, first line of defense and play a major role in an emergency. LILCO fails to appreciate this paramount concept and that shortcoming pervades LILCO's assumptions.
87. The "detailed State and local government drills and exercises" refer to seven years worth of experience chronicled in FEMA's post-exercise assessments, all of which have been provided by the State of New York to

LILCO or can be easily obtained by LILCO on its own, and all of which can be studied by LILCO.

88. The answer to Interrogatory No. 110 regarding recovery and reentry is just as applicable to this interrogatory concerning both ingestion pathway and recovery and reentry.
89. See answer to Interrogatory No. 85.
90. (a), (b) Not all of this information was "made available" or "actually used" during the Ginna Exercise because the scenario did not require all of this data. Appropriate information was available for decision making.
- (c) Information is updated by various agencies to greatly varying extents. See General Objections 1, 2 and 3 regarding information compiled by counties and other entities independent of the State of New York, such as the Cooperative Extension. LILCO should contact these entities directly since they are independent of the State of New York.
91. See General Objections 1, 2 and 3. As indicated in the answer to Interrogatory No. 90, many agencies become involved in an emergency and the extent of their involvement is dependent on the nature of each emergency; it is not possible to be more precise. Additional ingestion pathway training is needed, particularly for those counties outside the plume exposure EPZ.

92. The quotations referred to in the interrogatory originate from this sentence: "No New York State agency has worked out procedures, dedicated resources or trained personnel for ingestion pathway data collection and analysis at the Shoreham site." The sentence is structured around New York State agencies and Shoreham, but the interrogatory is structured around a "county-by-county basis for all counties in New York State." The originating sentence does not pertain to counties and, hence, the State of New York is unable to provide responsive information.
93. Some training and preparation has been conducted for some counties in the Nine Mile Point/Fitzpatrick ingestion pathway because these counties are common to the Ginna ingestion pathway. See Interrogatory No. 69 to determine common counties. Counties in New York State other than these common counties have not received the same type and amount of preparation because there have been no other ingestion pathway exercises, the Ginna exercise being the first and only one, to this date. Additional training is needed, but not scheduled, for the Indian Point and Nine Mile Point area.
94. See General Objections 1, 2 and 3. The State of New York does not know whether the counties could have "made an ingestion pathway response" at that time, much less what the quality of that response would have been.
95. Ingestion pathway response planning will take the form of ongoing training with the counties in question. Training spread out over a 12

month period should provide a more meaningful indication of what resources will be available for an actual response.

96. See General Objections 1, 2 and 3. Upon information and belief, county offices of emergency preparedness have the location of the local cooperative extension offices on file.
97. (a) The "site-specific implementing procedures" are the responsibility of the counties. Counties work with state agencies, but the "site-specific implementing procedures" are actually developed by the counties. See General Objections 1, 2 and 3.
- (b) Counties are responsible for implementing these procedures.
- (c) Training has occurred in the Ginna area. The State used the New York State Plan and the counties utilized, upon information and belief, their "site-specific implementing procedures."
98. The REPG Affidavit at 10 does not state that "there are 'detailed procedures' which go 'beyond the generic Plan and county-specific agenda' [sic]." Rather, it states that the State Plan "depends on the development of detailed procedures -- going beyond the generic Plan and county-specific addenda." These "detailed procedures" are developed by counties and retained by them. See General Objections 1, 2 and 3.
99. See General Objections 1, 2 and 3. The State of New York is unable to speculate how much time would be required. One unknown variable would

be whether counties would or could devote full-time or some other indeterminate amount of time to training, etc.

100. Through counsel, the State of New York states that the deposition of Donald DeVito, taken by LILCO, indicated that the State does not have an EOC on Long Island. A reading of the deposition transcript, however, indicates, for example, that some operations during Hurricane Gloria were directed for a time from a makeshift field office on Long Island. Concerning county EOCs on Long Island, see General Objections 1, 2 and 3.

101. The State of New York is unable to speculate on Suffolk or Nassau County's responses. See General Objections 1, 2 and 3. Three responsive occurrences that involved the State Emergency Management Office consisted of crisis management responses during Hurricane Gloria, a coastal storm in 1984 and the Grucci fireworks explosion. Activities included seeking financial aid, supplying electric generators, coordinating local agencies.

102. Without having the benefit of training and participating in an exercise, the State of New York is unable to state how the counties would or could support such an ingestion pathway response. See General Objections 1, 2 and 3.

103. For a statement of when the State of New York had such discussions, who attended them and what was discussed, see the chronology of events regarding the Ginna exercise. This document has already been produced

to LILCO. For counties not involved in the Ginna exercise, no such discussions have occurred.

104. See Interrogatory Answer No. 103.

(a) Discussions have not occurred in instances where ingestion pathway exercises have not been held.

(b) and (c) See General Objections 1, 2 and 3. The State of New York is unable to speculate about when discussions might occur in the future or whether they can result in any meaningful preparation for an ingestion pathway response.

105. Regarding local government personnel, see General Objections 1, 2, and 3. Regarding State personnel, they are "not primarily identified" because the individuals who will perform the functions set forth in the New York State Plan will be selected at the time of an accident based on criteria such as the type, time and location of the accident, and the degree of expertise required. Consequently, it is not possible to "identify" the "unidentified" State personnel, as this interrogatory attempts to do.

108. The New York State Plan does not contain complete instructions on recovery. However, the context in which the Monroe County Plan is "true" is that state agencies referred to in the New York State Plan depend on internal "routines" and instructions to mount a recovery response.

112. As stated in the REPG Affidavit at 21, the degree of complexity would depend on detailed preparation and planning, plus the availability and knowledge of particular individuals at the time of an accident.
113. See General Objections 1, 2 and 3. Other agencies that have the responsibility alluded to in the interrogatory are local (including counties) health departments, or other comparable local officials.
115. See General Objections 1, 2 and 3. "More or less support" is a term that cannot be reduced to a tangible entity. It is highly variable and it depends on governmental infrastructure, instantaneous levels of capabilities, staffing, absenteeism, training, experience, etc.
116. The parts of the New York State Plan that were not tested during the Ginna Exercise were the Westchester, Rockland, Orange, Putnam and Oswego appendices of the New York State Plan.
117. Plum Island and Fisher's Island are within Millstone's plume exposure EPZ.
118. See General Objections 1, 2 and 3. A copy of the Fisher's Island plan has already been provided by the State of New York to LILCO.
120. Copies of plans that may be responsive have already been provided to LILCO by the State of New York.

122. See Interrogatory Answer No. 63. It is not possible to state what the State of New York would do differently at Shoreham than at other nuclear plants because, for the reasons set forth in the Governments' April 13 Objections and Offer of Proof, the State of New York has not adopted any plan or otherwise trained or planned for responding to a Shoreham emergency. Accordingly, the State of New York is in no position to provide further responsive information.

All objections have been stated by counsel.



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DATE: June 3, 1988

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NUCLEAR REGULATORY COMMISSION

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LONG ISLAND LIGHTING COMPANY)	Docket No. 50-322-OL-3
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CERTIFICATE OF SERVICE

I hereby certify that copies of the "State of New York's Response to LILCO's Second Set of Interrogatories Regarding Contentions 1-2, 4-8, and 10" have been served on the following this 3rd day of June 1988 by U.S. Mail, first class, except as noted by asterisks.

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