



attempting to activate the New York State EBS network through that network's lead station, WCBS-AM in New York, New York. If that is unsuccessful, LILCO's proposal calls for the activation of its backup EBS network through WPLR-FM in New Haven, Connecticut. Regardless of which EBS network is activated, however, WPLR is relied upon by LILCO to activate the tone alert radios that are installed (or are to be installed) at various special facilities throughout the 10-mile Shoreham EPZ.

Although the interaction between LILCO's two alternative EBS networks is confusing and obscure, one thing is clear: neither WCBS nor WPLR, the two stations relied upon by LILCO to activate its EBS networks, has agreed to participate in any way in LILCO's EBS proposals. In fact, WPLR recently has specifically stated that it will not participate in LILCO's EBS proposal, and apparently, despite attempts by LILCO to obtain an agreement with WCBS to serve as LILCO's lead EBS station, that station has similarly refused to do so. Since there are no stations to activate either of the two EBS networks relied upon by LILCO, it must be concluded that LILCO's EBS proposal is not feasible, implementable or workable. Accordingly, this Board must rule as a matter of law that LILCO does not have an implementable EBS proposal, and should grant summary disposition in favor of the Governments on the Governments' existing EBS contention. The Governments propose, therefore, that the Board rescind its Confirmatory Memorandum and Order of February 29, 1988 (barring

further summary disposition motions) and permit the Governments to file such a motion within 10 days of receipt of such Board notification.

## II. BACKGROUND

On June 1, 1987, the Commission issued a Memorandum and Order<sup>1/</sup> reopening the record on LILCO's EBS plan as a result of the withdrawal of WALK Radio as LILCO's primary or lead EBS station. On November 6, 1987, LILCO filed a Motion for Summary Disposition of the WALK Radio Issue.<sup>2/</sup> LILCO's Motion introduced a new EBS proposal, based upon WPLR as the lead EBS station ("WPLR EBS proposal").

According to LILCO's Motion, and the subsequently issued Revision 9 to the LILCO Plan, the functions of WPLR as a lead station were threefold. First, WPLR was to act as LILCO's "Common Point Control Station," a phrase introduced in Revision 9, by directly broadcasting emergency information concerning a Shoreham radiological emergency to the public. LILCO Plan at 3.8-6 (Revision 9). Second, WPLR was to activate broadcast receivers installed (or to be installed) at each of the nine secondary stations comprising LILCO's EBS network, which would have enabled these secondary stations either to rebroadcast the

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<sup>1/</sup> CLI-87-5, 25 NRC 884 (1987).

<sup>2/</sup> LILCO's Motion for Summary Disposition of the WALK Radio Issue ("LILCO's Motion").

EBS messages received from WPLR over their own frequencies, or to tape them for later broadcast. Id. Third, WPLR was relied upon to activate tone alert radios installed (or to be installed) at various special facilities, such as schools, hospitals, nursing homes and major employers, throughout the 10-mile Shoreham EPZ. LILCO Plan, Appendix A at IV-3, -170, -172 and -173.

This Board denied LILCO's Motion on December 21, 1987, and directed the Governments to submit contentions concerning the adequacy of LILCO's WPLR EBS proposal. The Governments submitted a single contention with numerous bases on January 12, 1988. That contention alleged that LILCO's provisions for radio transmission of EBS messages and other emergency information, and for activation of tone alert radios and receivers installed at the secondary EBS stations, were inadequate and failed to comply with relevant regulatory requirements. Notwithstanding these allegations, this Board issued an Order on February 24, 1988, which essentially limited the scope of the contention to the adequacy of the coverage of WPLR and to the adequacy of communication of emergency information to persons within the 10-mile Shoreham EPZ.<sup>3/</sup>

Discovery on LILCO's WPLR EBS proposal ended on March 25, 1988. Testimony was filed by the Governments and LILCO on April

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<sup>3/</sup> Memorandum and Order (Board Ruling on Contentions Relating to LILCO's Emergency Broadcast System), dated February 24, 1988.

13, and by FEMA on April 28, and hearings on this issue were contemplated to begin the following month, on or about May 16.

On May 6, 1988, however, LILCO disclosed that it was now relying upon a significantly different EBS proposal, which would be described in detail in Revision 10 of LILCO's Plan. Among other things, LILCO then revealed for the first time that WPLR had announced to LILCO that it intended to withdraw as the lead station in LILCO's proposed EBS network, if LILCO were ever issued a full power license. LILCO further explained that WGLI, which had been a secondary station in the WPLR EBS network, had agreed to take over as the lead station in LILCO's EBS network. Also on May 6, LILCO revealed for the first time that LILCO would not initially rely on its own EBS network, but would rather first attempt to activate the New York State EBS network, with WCBS-AM as the lead station ("WCBS EBS network"). LILCO, however, provided only a very cryptic and confusing description of how the WCBS EBS network would be activated and how it would interact with the LILCO EBS network that now included WGLI as the lead station. See Exhibit 1 hereto.

On May 9, counsel for LILCO notified this Board by letter that in the event that LILCO received a full power operating license for Shoreham, WPLR would no longer agree to serve as the lead station in LILCO's EBS network. See Exhibit 2 hereto for a copy of LILCO's May 9 letter. Counsel for LILCO assured the

Board, however, that WPLR had agreed to remain in LILCO's EBS network and that it would continue to act as the station that activated "the tone alert radios in the EBS," although it would not act "as the 'trigger' station for the radio station[s] in the EBS." The letter conceded that LILCO needed to determine "how any restructuring of its EBS will be implemented," but concluded that it was "appropriate and desirable" to proceed with the hearing on the admitted EBS issues. See Exhibit 2.

The status of the Governments' EBS contention and the issues raised therein were discussed at a prehearing conference of counsel on May 10, 1988. See Tr. 19325-49. Counsel for LILCO there argued that the issue of WPLR's coverage should be litigated because although WPLR was not going to be the lead station in LILCO's EBS network, it had agreed to participate in LILCO's proposed EBS in some capacity. However, because counsel for LILCO was unable to explain adequately the structure of its EBS system or how it would operate, this Board ordered LILCO to file a briefing paper concerning the status of its EBS proposal and whether a hearing on the issue should proceed.

LILCO did not submit such a briefing paper. Instead, on May 16, LILCO sent a letter to the Board that once again stated that WPLR would not act as the lead station in LILCO's proposed EBS in the event that LILCO obtained a full power operating license, and, for the first time, informed the Board that WPLR's continued

participation in LILCO's EBS, even as a secondary station, was unclear. A copy of LILCO's May 16 letter is attached as Exhibit 3 hereto. LILCO's letter included as an attachment a May 9 letter from counsel for WPLR, which amended WPLR's agreement to participate in LILCO's proposed EBS network. That letter stated, in relevant part:

WPLR-FM, however, will not act in that capacity [primary broadcast station] should the NRC grant licensure to full power. Should the community need them exist in the plant's full power operation, WPLR would consider serving in a secondary capacity. (Emphasis added.)

On May 24, LILCO issued Revision 10 to the LILCO Plan. Relevant portions of Revision 10 are attached as Exhibit 4 hereto. While Revision 10 indicates that LILCO will initially rely on the New York State EBS, with WCBS as the lead station, it also claims that the "Shoreham local EBS network" will serve as a backup to the State EBS. However, contrary to previous LILCO representations, Revision 10 does not rely on WGLI as the lead station of the "Shoreham local EBS network." Rather, Revision 10 calls for WPLR to once again assume that role. Indeed, contrary to WPLR's letter of May 9 -- which states that WPLR would only "consider serving in a secondary capacity" -- Revision 10 states that WPLR has agreed, if needed, "to remain a member station" of the Shoreham local EBS and that the other participating stations in the Shoreham local EBS "will tune to WPLR and rebroadcast an

EBS message coming from the LERO EOC" upon activation of WPLR's dual tone EBS signal. LILCO Plan, 3.8-7 (Revision 10).

On May 25, counsel for LILCO sent a letter to the Board discussing the changes in LILCO's EBS proposal as set forth in Revision 10. A copy of LILCO's May 25 letter is attached as Exhibit 5. The letter states that Revision 10 provides for the "direct activation of the Shoreham EBS through WPLR." The letter also states that "LILCO believes that these revisions adequately resolve all EBS issues."

On May 26, however, during hearings before this Board, Judge Gleason raised the EBS issue and expressed his confusion over LILCO's description of its EBS proposal in the May 25 letter. Relevant portions of the May 26 transcript are attached as Exhibit 6. When counsel for LILCO was unable to explain adequately the proposal, this Board ordered limited discovery with respect to LILCO's EBS proposal.<sup>4/</sup> The Board also ordered the parties to submit a briefing paper shortly thereafter concerning how best to proceed.

On June 6, counsel for WPLR sent a letter to counsel for LILCO which clearly and unequivocally stated that WPLR was terminating its agreement to participate in LILCO's proposed EBS

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<sup>4/</sup> The Board ordered discovery to "provide an opportunity for parties to have discovery with respect to whatever it is you [LILCO] are proposing." Tr. 20429.

network.<sup>5/</sup> The June 6 letter is attached hereto as Exhibit 7. According to counsel for WPLR, some type of notice of termination had been given to LILCO on June 3.

### III. DISCOVERY

Because of the unavailability of LILCO's lead EBS witness, Douglas Crocker, until June 13, the discovery period was extended by the Board to that date. Mr. Crocker was deposed on June 13; in addition, LILCO produced two documents in response to a document request made by the Governments. The Governments believe that this limited discovery was sufficient to determine the framework of LILCO's EBS proposal, and that nothing more is needed.

Counsel for LILCO initially disagreed with this position, notifying counsel for the Governments that they believed that the limited EBS discovery period ordered by the Board -- a period designed to permit the parties to discover what LILCO was proposing (see note 4 above) -- also permitted the depositions of County and State personnel -- specifically, John Randolph, G. Berkeley Bennett, John Bilello and Richard Jones of Suffolk County and Marvin Silverman of New York State. Counsel for

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<sup>5/</sup> The agreement between LILCO and WPLR, dated July 27, 1987, requires either party to give 90 days written notice to terminate the agreement.

Suffolk County informed counsel for LILCO that these proposed deponents would not be produced, because the discovery contemplated by the Board was limited to determining what LILCO's Revision 10 was all about, and these proposed deponents clearly were not relevant for such purposes. See letter of Michael J. Missal to Donald P. Irwin and K. Dennis Sisk, dated June 10, 1988 (attached as Exhibit 8 hereto). Nonetheless, up until last Friday, June 17, counsel for LILCO stated their disagreement with this position, asserting that these proposed deponents were relevant, because they "may have knowledge of the technical adequacy of the State EBS." See, e.g., letter of K. Dennis Sisk to Michael J. Missal and Richard J. Zahnleuter, dated June 13, 1988 (attached as Exhibit 9 hereto).

As previously noted, however, the depositions of County and State personnel were not envisioned by the Board's May 26 Order, and would be a wasted exercise in any event, because none of the proposed deponents has any role in LILCO's Revision 10, is aware of the EBS proposal in Revision 10, or has even seen Revision 10.<sup>6/</sup> In fact, during the deposition of LILCO's Douglas Crocker, it was conceded that the only Suffolk County official even

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<sup>6/</sup> In addition, depositions of the County and State employees identified by LILCO would be inappropriate, because LILCO has already gone through the process of formulating and finalizing the EBS provisions now set forth in Revision 10. As Mr. Crocker stated during his deposition (at pages 70-71), LILCO considers the Revision 10 EBS provisions to be "complete," "satisfactory," and "reliable." Thus, in LILCO's view, there are no details of its EBS proposal that need to be added. Under these circumstances, after-the-fact depositions of County/State employees would be plainly untimely, wasteful and improper.

mentioned in Revision 10 concerning LILCO's EBS proposal was the Suffolk County Executive or his designee. See Deposition of Douglas Crocker, June 13, 1988 ("Crocker Deposition") at 21-24 (attached as Exhibit 10). Therefore, whether or not the proposed deponents have any "knowledge of the technical adequacy of the State EBS" is totally irrelevant to the scope of the limited discovery ordered by this Board. Accordingly, they should not be required to be deposed in this proceeding.<sup>7/</sup>

#### IV. LILCO's CURRENT EBS PROPOSAL

At best as it can be determined by reviewing the latest version of the LILCO Plan (relevant portions of which are attached as Exhibit 4), and as explained during the deposition of Douglas Crocker, LILCO's current EBS proposal consists of the following general procedures:

- 1) In the event of a Shoreham emergency declaration, LERO will request that the Suffolk County Executive or his designee activate the State EBS network by contacting WCBS to broadcast EBS messages to the public and to contact the other

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<sup>7/</sup> In any event, counsel for LILCO announced during the Board telephone conference on June 17 that LILCO was no longer seeking to depose County and State personnel on EBS-related issues. Tr. 20890-91.

stations in the State EBS network to broadcast EBS messages;

- 2) If the Suffolk County Executive or his designee fails to activate the State EBS, LERO will then request that the State Emergency Management Organization ("SEMO") activate the State EBS network by contacting WCBS;
- 3) If SEMO fails to activate the State EBS, LERO will then contact WCBS directly to activate the State EBS network;
- 4) If after some unspecified time there is a "problem or delay in activating" the State EBS network, LERO would then activate LILCO's proposed EBS network, which it refers to as a backup network, with WPLR as the lead station. To activate LILCO's proposed EBS network LERO would then go back to the Suffolk County Executive or his designee and request that WPLR be contacted to issue EBS messages to the public and to contact the other stations in LILCO's proposed EBS network to broadcast EBS messages. If the Suffolk County Executive or his designee fails to activate

LILCO's proposed EBS, then LERO would contact WPLR directly; and

- 5) Whether or not WCBS or WPLR is used to activate LILCO's EBS, LILCO's EBS proposal presumes that WPLR will activate the tone alert radios installed (or to be installed) at various special facilities throughout the 10-mile Shoreham EPZ.

LILCO's EBS proposal is therefore dependent upon the participation of WCBS and WPLR to activate the two EBS networks (the State EBS and LILCO's proposed backup EBS) by broadcasting messages to the public, contacting the stations participating in the EBS networks, and activating the tone alert radios at various special facilities within the EPZ. However, as evidenced by Exhibits 3 and 7 hereto, WPLR has specifically stated that it will not participate in LILCO's EBS proposal, either as a lead station or a secondary station. Indeed, Mr. Crocker confirmed during his deposition that WPLR was no longer participating in LILCO's EBS proposal. See, e.g., Crocker Deposition at 80 (attached as Exhibit 11). Mr. Crocker also confirmed that there is no letter of agreement with WCBS to participate in LILCO's EBS proposal (like there had been when WALK and WPLR were the lead stations of LILCO's earlier EBS proposals), nor is there any "informal" agreement. See Crocker Deposition at 19 (attached as Exhibit 12).

Therefore, as the radio stations that are necessary for the activation of LILCO's EBS networks are not willing to participate in LILCO's EBS proposals, it can only be concluded that LILCO's EBS proposals are only a figment of LILCO's imagination. Put another way, because there are no lead stations to activate either one of the EBS networks that LILCO relies upon, LILCO's EBS proposal is not feasible, implementable or workable.

V. THE BOARD SHOULD GRANT SUMMARY DISPOSITION  
OF THE GOVERNMENTS' EBS CONTENTION

The EBS contention that this Board has admitted, and which was to be the subject of the previously scheduled hearing, focused primarily on the adequacy of WPLR to act as the lead station of LILCO's EBS network. It would therefore be a waste of time and resources to hold a hearing concerning the adequacy of WPLR, because WPLR has clearly and definitively stated that it will not participate in any capacity in LILCO's proposed EBS network. Additionally, it would be similarly ill-advised to hold a hearing concerning the adequacy of WCBS to serve as LILCO's lead EBS station, because that station has not agreed to participate in LILCO's proposal.<sup>8/</sup>

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<sup>8/</sup> It can be expected that counsel for LILCO may propose resolving the EBS issue in the context of the "realism" proceeding. Such a proposal, however, would be without merit. The "realism" proceeding focuses on the presumption that the Governments would participate in emergency planning in the event of a radiological emergency. LILCO's EBS proposal, however, provides for LILCO to activate its EBS networks by contacting WCBS and WPLR directly, if the Governments are unable or  
(footnote continued)

It appears to the Governments, therefore, that the only option available to this Board is to rule as a matter of law that LILCO does not have a feasible, implementable or workable EBS proposal, and to grant summary disposition of the Governments' existing EBS contention. The Governments recognize, however, that this Board has prohibited the filing of motions for summary disposition. See Confirmatory Memorandum and Order, dated February 29, 1988. The Board is therefore requested to rescind its prohibition of summary disposition motions, so that the Governments can file the appropriate moving papers within a short period of time -- 10 days would seem appropriate.

#### VI. CONCLUSION

For the reasons set forth above, the Board must rule as a matter of law that LILCO does not have a feasible, implementable or workable EBS proposal. Thus, the Board should allow the

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(footnote continued from previous page)  
unwilling to do so first. See LILCO Plan, at 3.8-7 (Revision 10). Therefore, as LILCO's EBS proposal is not dependent upon the Governments' participation, the EBS issue is separate and apart from any "realism" issue. In fact, counsel for LILCO has previously indicated as much. See Tr. 20429.

Governments to submit a motion seeking summary disposition in their favor on the EBS contention presently before the Board.

Respectfully submitted,

E. Thomas Boyle, Esquire  
Suffolk County Attorney  
Bldg. 158, North County Complex  
Veterans Memorial Highway  
Hauppauge, New York 11788

*Michael S. Miller*

---

Michael S. Miller  
Michael J. Missal  
KIRKPATRICK & LOCKHART  
1800 M Street, NW  
South Lobby - Ninth Floor  
Washington, DC 20036-5891

Attorneys for Suffolk County

*Fabian G. Palomino*

---

Fabian G. Palomino  
Richard J. Zahnleuter  
Special Counsel to the Governor  
of the State of New York  
Executive Chamber, Room 229  
Capitol Building  
Albany, New York 12224

Attorneys for Mario M. Cuomo  
Governor of the State of New York

*Stephen B. Latham*

---

Stephen B. Latham  
Twomey, Latham & Shea  
P.O. Box 398  
33 West Second Street  
Riverhead, New York 11901

Attorney for the Town of  
Southampton

DOCKETED  
USNR  
June 20, 1988

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'88 JUN 21 P5:41

Before the Atomic Safety and Licensing Board

OFFICE SECRETARY  
DOCKETING & SERVICE  
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\_\_\_\_\_  
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 the GOVERNMENTS' BRIEFING PAPER CONCERNING LILCO'S EMERGENCY BROADCAST SYSTEM have been served on the following this 20th day of June, 1988 by U.S. mail, first class, unless otherwise noted.

\*James P. Gleason, Chairman  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

\*Mr. Frederick J. Shon  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

\*James P. Gleason, Chairman  
513 Gilmore Drive  
Silver Spring, Maryland 20901

\*William R. Cumming, Esq.  
Spence W. Perry, Esq.  
Office of General Counsel  
Federal Emergency Management Agency  
500 C Street, S.W., Room 840  
Washington, D.C. 20472

\*Dr. Jerry R. Kline  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

\*\*W. Taylor Reveley, III, Esq.  
Hunton & Williams  
P.O. Box 1535  
707 East Main Street  
Richmond, Virginia 23212

Fabian G. Palomino, Esq.  
Richard J. Zahnleuter, Esq.  
Special Counsel to the Governor  
Executive Chamber, Rm. 229  
State Capitol  
Albany, New York 12224

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

Joel Blau, Esq.  
Director, Utility Intervention  
N.Y. Consumer Protection Board  
Suite 1020  
Albany, New York 12210

E. Thomas Boyle, Esq.  
Suffolk County Attorney  
Bldg. 158 North County Complex  
Veterans Memorial Highway  
Hauppauge, New York 11788

Mr. L. F. Britt  
Long Island Lighting Company  
Shoreham Nuclear Power Station  
North County Road  
Wading River, New York 11792

Ms. Nora Bredes  
Executive Director  
Shoreham Opponents Coalition  
195 East Main Street  
Smithtown, New York 11787

Alfred L. Nardelli, Esq.  
New York State Department of Law  
120 Broadway, 3rd Floor  
Room 3-116  
New York, New York 10271

MHB Technical Associates  
1723 Hamilton Avenue  
Suite K  
San Jose, California 95125

Mr. Jay Kunkleburger  
New York State Energy Office  
Agency Building 2  
Empire State Plaza  
Albany, New York 12223

David A. Brownlee, Esq.  
Kirkpatrick & Lockhart  
1500 Oliver Building  
Pittsburgh, Pennsylvania 15222

Douglas J. Hynes, Councilman  
Town Board of Oyster Bay  
Town Hall  
Oyster Bay, New York 11771

Ms. Elisabeth Taibbi, Clerk  
Suffolk County Legislature  
Suffolk County Legislature  
Office Building  
Veterans Memorial Highway  
Hauppauge, New York 11788

Stephen B. Latham, Esq.  
Twomey, Latham & Shea  
33 West Second Street  
Riverhead, New York 11901

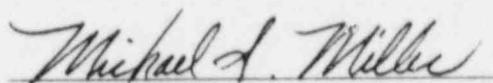
Docketing and Service Section  
Office of the Secretary  
U.S. Nuclear Regulatory Comm.  
1717 H Street, N.W.  
Washington, D.C. 20555

Hon. Patrick G. Halpin  
Suffolk County Executive  
H. Lee Dennison Building  
Veterans Memorial Highway  
Hauppauge, New York 11788

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

\*Richard Bachmann, Esq.  
Edwin J. Reis, Esq.  
U.S. Nuclear Regulatory Comm.  
Office of General Counsel  
Washington, D.C. 20555

Mr. Stuart Diamond  
Business/Financial  
NEW YORK TIMES  
229 W. 43rd Street  
New York, New York 10036

  
Michael S. Miller  
KIRKPATRICK & LOCKHART  
1800 M Street, N.W.  
South Lobby - 9th Floor  
Washington, D.C. 20036-5891

\* Service via hand delivery.

\*\* Service via telecopy.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of )  
 )  
LONG ISLAND LIGHTING COMPANY ) Docket No. 50-322-OL-3  
 ) (Emergency Planning)  
(Shoreham Nuclear Power Station, ) (Best Efforts Issue)  
Unit 1) )

TESTIMONY OF DENNIS M. BEHR,  
DOUGLAS M. CROCKER, DIANE P. DREIKORN,  
EDWARD B. LIEBERMAN, AND JOHN A. WEISMANTLE  
ON THE "BEST EFFORTS" CONTENTIONS EP 1-2, 4-8, AND 10

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

May 6, 1988

companies to move their disabled cars. We cannot see why similar activities would suddenly become illegal in a radiological emergency.

88. Q. Does LILCO ever remove road impediments in the course of its business?

A. [Crocker, Weismantle] Yes. As the attached Affidavit of Charles A. Daverio shows (page 9), LILCO has in the past been asked by the authorities to tow a stranded vehicle. During his deposition, Chief Roberts confirmed that private entities, such as a utility, can be and have been directed by the police to perform such functions. Roberts deposition, p. 151.

Contention 5: Sirens/EBS

89. Q. Please state Contention 5 as rewritten by the Board.

A. [Behr, Crocker, Weismantle] Contention 5 reads as follows:

Whether LILCO's emergency plan and the best efforts response of the State and County governments will satisfy regulatory requirements concerning activating sirens and directing the broadcast and contents of emergency broadcast system messages to the public.

April 8 Memorandum at 26.

90. Q. Does the LERO Plan have administrative and physical means for alerting and providing prompt instructions to the public within the plume exposure pathway EPZ?

A. [Behr, Crocker, Weismantle] Yes. The means include sirens and an Emergency Broadcast System (EBS).

91. Q. What did the Voorhees plan say about the sirens?

A. [Weismantle] The Voorhees plan contemplated that the siren system would be used to alert the public. Voorhees plan, page 16.

92. Q. How are the LERO sirens activated?

A. [Behr, Crocker, Weismantle] The sirens can be activated from any of three different locations by LILCO or LERO. Admitted Fact 7. We anticipate that the State or County would ask us to sound the sirens as soon as it became necessary to alert the public.

93. Q. What would the sirens mean to the public?

A. [Behr, Crocker, Weismantle] Under the LERO Plan, the sirens alert people to tune their radios to the EBS. The public is told this in the annual public education brochure and by a variety of other means.

94. Q. What EBS will LERO use?

A. [Behr, Crocker, Weismantle] The LERO EBS at this time includes WPLR of New Haven, Connecticut, as the common point control station (CPCS). The coverage of this EBS is being separately litigated. Within the past few days, however, WPLR has advised us that it will continue as the CPCS only until Shoreham is issued a full-power license. This decision by the station came at a time when the New Haven Board of Aldermen was about to pass a resolution condemning WPLR's participation in the EBS for Shoreham, when a U.S. Congressman was pressuring the station not to participate, and when anti-Shoreham groups were pressuring the station's advertisers.

After Shoreham is issued a full-power license, WPLR is willing to continue as a primary station. WGLI, one of our present primary stations, has agreed to take over as the CPCS.

However, in light of the fact that LILCO has now twice put together an EBS and then had to change it, in the future we will rely in the first instance on the ordinary State EBS, with WCBS of New York City as its

Common Program Control Station-1. The details of the system are given in Admitted Facts 14-27. The present procedure, OPIP 3.8.2 § 5.1.4 (Rev. 9), already addresses the possibility of switching from the WPLR system to the WCBS system once an emergency has begun. Included in the WCBS EBS are WALK and the other radio stations in LILCO's original EBS. Accordingly, there is no question that coverage of the entire EPZ is provided.

Accordingly, in the future, if there is an emergency at Shoreham requiring the activation of an EBS, the LERO Director of Local Response will ask the Suffolk County Executive to activate or endorse activation of the WCBS system. Furthermore, the State Plan makes clear that the State Emergency Management Office can coordinate the issuance of EBS messages if county personnel have difficulty doing so. State Plan at K-8. The Director will then call WCBS directly and ask it to broadcast a message, which he will be prepared to read over the phone directly onto the air. The LERO Director has copies of the prewritten EBS messages in the LERO Plan with him at all times. Sample Message A, a simple warning that an emergency message is to follow (PID. 21 NRC at 757-58), is only three paragraphs long and can be read quickly.

If there is any undue delay in activating the WCBS system, the LERO Director will ask the County Executive to endorse activating the Shoreham local EBS.

Also, as called for under OPIP 3.8.2 § 5.1.4a, the LERO Coordinator of Public Information, when WCBS takes over as CPCS, will call WPLR and ask it to transmit the two-tone attention signal and inform its listeners to tune to WCBS for further emergency information. This step is to be repeated each time a new EBS message is issued in order to activate the tone alert radios.

95. Q. How are EBS messages prepared and broadcast under the LERO Plan?
- A. [Behr, Crocker, Weismantle] EBS messages are governed by OPIP 3.8.2 (Emergency Broadcast System Activation).
96. Q. How exactly would EBS messages be written with a County and State "best efforts" response?
- A. [Behr, Crocker, Weismantle] Prewritten sample EBS messages in OPIP 3.8.2, modified as necessary, would be used. Final decisions on the EBS messages would be coordinated with the County or State, with the County Executive or the State Chairman of the DPC giving the final approval.
97. Q. How much delay in sounding the sirens would you expect the "best efforts" participation of the County and State to cause?
- A. [Behr, Crocker, Weismantle] There would be no delay. We would expect that once a decision had been made to broadcast an EBS message, the sirens would be sounded at the same time as the EBS was activated.
98. Q. How much delay in broadcasting EBS messages would you expect the "best efforts" participation of the State and County to cause?
- A. [Behr, Crocker, Weismantle] There would be no delay in broadcasting EBS messages either. Again, once a decision had been made on a protective action, an EBS message would go out immediately afterward to tell the public what they should do. It makes sense that the County and State would want to tell the public right away about any decisions they had made.
99. Q. Does the Plan meet the time requirements in NRC regulations?
- A. [Crocker, Weismantle] Yes. The Licensing Board has noted two 15-minute requirements:

The regulations therefore have two separate 15-minute notification requirements. The first requires the licensee to transmit notice of an emergency at the plant to offsite authorities within 15 minutes after the emergency is recognized. The second requires offsite authorities to make a prompt public notification decision and to have the capability to carry out that decision within 15 minutes of their receipt of a notification of emergency at the plant.

PID, 21 NRC at 708. The Board has also found that, for a utility plan, it is LERO that is the "off-site authorities" for the purposes of the first 15-minute requirement:

In this unique case, State and local officials are not the offsite authorities who will receive the initial notification from the Shoreham control room, since New York and Suffolk County are not participating in emergency planning. Instead, LILCO plans for that notification to be received at its Customer Service Office in Hicksville, New York. LILCO Plan at 3.3-1 to 3.3-4.

PID, 21 NRC at 708-09. The County Police and County EOC (as well as the State, assuming it has reconnected its RECS phones) are notified by RECS phone at the same time as the Customer Service Office.

The second 15-minute requirement covers the time from when a decision is made until an EBS message is broadcast. The clock starts running when an EBS message is approved (that is, when Suffolk County or the State agrees to broadcast it), and the message is supposed to start going out over the air within 15 minutes after that.

Under the LERO Plan, with the "best efforts" participation of the State and County, (1) decisions would be made with the participation of the County and/or State representatives, (2) an EBS message from the Plan would be prepared with the concurrence of the County and/or State, and (3) the message would be read over the phone to WCBS and broadcast at the same time. It is this third step, reading the message, that must be begun within 15 minutes.

# HUNTON & WILLIAMS

707 EAST MAIN STREET P.O. BOX 1535

RICHMOND, VIRGINIA 23218

TELEPHONE 804.786.8200

TELEX 6844251

May 9, 1988

2000 PENNSYLVANIA AVENUE, N.W.  
P. O. BOX 9250  
WASHINGTON, D. C. 20036  
TELEPHONE 202.958-1900

FIRST VIRGINIA BANK TOWER  
P. O. BOX 2889  
NORFOLK, VIRGINIA 23514  
TELEPHONE 804.625-5501  
TELEX 755686

3000 CHAIN BRIDGE ROAD  
P. O. BOX 1147  
FAIRFAX, VIRGINIA 22030  
TELEPHONE 703.352-2200

60 PARK AVENUE  
NEW YORK, NEW YORK 10017  
TELEPHONE 212.309-3000  
TELEX 494848 NUNY VI

ONE HANNOVER SQUARE  
P. O. BOX 108  
RALEIGH, NORTH CAROLINA 27602  
TELEPHONE 919.899-3000

FIRST TENNESSEE BANK BUILDING  
P. O. BOX 881  
KNOXVILLE, TENNESSEE 37901  
TELEPHONE 615.637-4311

FILE NO. 24566.300001  
DIRECT DIAL NO. 804.786. 7251

## TELECOPY

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

Gentlemen:

This matter treats two issues: EBS stations and hearing scheduling.

### 1. EBS

LILCO confirms a recent development, initially reported in LILCO's written "realism" testimony filed May 6, 1988, regarding LILCO's Emergency Broadcast System (EBS).

WPLR-FM in New Haven, Connecticut currently is the CPCS or "trigger" station in LILCO's EBS. WPLR-FM has assured LILCO that it will continue as the "trigger" station through the licensing proceedings. WPLR has recently informed LILCO, however, that once LILCO obtains a full power operating license for the Shoreham Nuclear Power Station (SNPS), WPLR-FM will remain in LILCO's EBS as a member station (referred to in our realism testimony as a "primary" station) only. As a member station, WPLR will continue to act as the station triggering the tone alert radios in the EBS. However, it will not act thereafter as the "trigger" station for the radio station in the EBS.

Because WPLR will remain a part of the EBS both before and after licensing, with respect to the evidentiary hearings on remanded issues which are set to begin May 16, 1988, LILCO believes it is appropriate and desirable to proceed with the hearing on the admitted EBS issues regarding the coverage of LILCO's EBS, including WPLR. Once LILCO determines how any restructuring of its EBS will be implemented, we will promptly so inform this Board and all parties.

~~8865170271~~

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# HUNTON & WILLIAMS

Atomic Safety and Licensing Board  
May 9, 1988  
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## 2. Hearing Schedule

LILCO also informs the Board that the parties have been discussing a hearing schedule for the remanded school bus driver, hospital ETE's, and EBS issues. LILCO proposes that the school bus driver issue be heard first, beginning May 16 and ending May 19 or 20; that testimony on the hospital ETE's be heard May 23-24 and 27 (the only day the NRC's witness will be available); and that the EBS issue be heard May 25-26 and possibly May 31, if the Board decides to hear the FEMA witness in Washington, D.C. Counsel for both FEMA and the NRC have agreed to this schedule.

The Intervenors have proposed a schedule beginning May 17 and continuing five weeks through June 10 with EBS being heard first, hospital ETE's next, and the school bus driver issue being heard last. Intervenors have also stated that they would agree to LILCO's school bus driver witnesses being heard first. However, they have been unwilling to agree to compress their schedule proposals to fit into anything less than five weeks. LILCO believes that five weeks of hearings is plainly excessive for the issues now before this Board.

Some weeks ago, in response to the Board's order setting May 16 as the beginning of the hearing, LILCO told its school bus driver witnesses to hold open May 16-17 for hearings. LILCO's witnesses have done so and are prepared to proceed on May 16 on the school bus driver issue. LILCO's witnesses on EBS and ETE's are prepared to proceed the second week of hearings, beginning on May 23.

The short of the matter is that LILCO and the Intervenors have not been able to agree on an order of issues for the hearing, the appropriate length of the hearing, or other matters. We will be prepared to discuss this matter at tomorrow's prehearing conference if the Board wishes.

Sincerely yours,

*Donald P. Irwin*

Donald P. Irwin  
James N. Christman  
K. Dennis Sisk

201/374  
cc: Service List

# HUNTON & WILLIAMS

100 PARK AVENUE

NEW YORK, NEW YORK 10011

TELEPHONE 212-309-1000

TELEX 424549 HUNT UI

709 EAST MAIN STREET P. O. BOX 1838  
RICHMOND, VIRGINIA 23218  
TELEPHONE 804-788-8200  
TELEX 884423

FIRST VIRGINIA BANK TOWER  
P. O. BOX 3869  
NORFOLK, VIRGINIA 23514  
TELEPHONE 804-628-5501  
TELEX 758626

3080 CHAIN BRIDGE ROAD  
FAIRFAX, VIRGINIA 22030  
TELEPHONE 703-382-2200

8000 PENNSYLVANIA AVENUE, N.W.  
P. O. BOX 18230  
WASHINGTON, D. C. 20036  
TELEPHONE 202-895-1500

ONE HANNOVER SQUARE  
P. O. BOX 109  
RALEIGH, NORTH CAROLINA 27602  
TELEPHONE 919-889-3000

FIRST TENNESSEE BANK BUILDING  
P. O. BOX 951  
KNOXVILLE, TENNESSEE 37901  
TELEPHONE 615-637-4311

FILE NO

May 16, 1988

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

## EBS Remand

Gentlemen:

As this Board knows, LILCO initially created a specific Emergency Broadcast System network for the Shoreham Nuclear Power Station in 1983, as part of the offsite emergency plan it developed after Suffolk County reversed its earlier course of cooperation. That network was originally based on a Long Island Station, WALK, which was to serve as the "trigger" station ("Common Program Control Station" or "CPCS-1" station in FCC terminology). EBS issues involving that network were litigated in the original round of emergency planning litigation decided by the Licensing Board in 1985.

WALK unilaterally terminated its agreement with LILCO in 1986. The only explanation LILCO has ever received for this withdrawal was the hostility of Suffolk County and New York State to emergency planning at Shoreham and to the emergency plan developed by LILCO for Shoreham.

LILCO next constructed a successor EBS system, based on WPLR-FM, a station located in New Haven, Connecticut. Recently, following months of pressure from groups based on Long Island as well as in New Haven, events similar to those which took place with WALK two years ago have recurred. In late April, 1988, the New Haven Board of Aldermen enacted a nonbinding resolution urging WPLR to repudiate its agreement with LILCO. The local Congressman, Bruce Morrison, also pressured the station to withdraw.

~~884524033~~

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Discussion at the May 10 Prehearing Conference concerned the likelihood that WPLR would no longer serve as the "CPCS-1" station for the Shoreham EBS following receipt of a full power license. Since the prehearing conference, two sets of developments have continued to unfold; neither has come to a definitive resolution. First, after the prehearing conference LILCO received a letter from WPLR's counsel, Herbert Emanuelson, Esq., dated May 9. In the letter, WPLR has again assured LILCO that it will continue to act as the lead or trigger station in the LILCO EBS until LILCO obtains a full power operating license, but will not do so thereafter. Unlike the situation with WALK, the letter does not exclude WPLR's continued participation in the Shoreham EBS. However, WPLR's letter is not clear as to whether WPLR will remain a member station in the EBS after LILCO obtains a full power operating license.

Second, LILCO currently is making progress on the details of its EBS procedures relying upon the official EBS for the Nassau and Suffolk Counties Operational Area, triggered by WCBS. We anticipate being able to notify the Board and the parties shortly as to the interface of this system with the LILCO Plan. Since the WCBS-based EBS provides more than adequate coverage of the Shoreham EPZ, this may moot the need to litigate the coverage of the WPLR-based system.

LILCO has concluded that any Shoreham-specific EBS is likely to be vulnerable to pressure. LILCO will therefore rely primarily on the existing federal EBS for the Nassau and Suffolk Counties Operational Area, based on WCBS in New York City. This system, which is the one on which Long Islanders now rely for warning in every other emergency, and its application to Shoreham will be described in Revision 10 to the Shoreham Offsite Emergency Plan, which LILCO expects to issue this week.

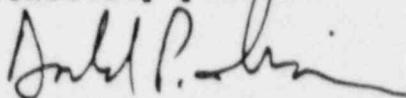
LILCO is not withdrawing its testimony on the signal coverage of the WPLR-based EBS. However, until the circumstances described above are clarified, LILCO believes that it is premature to proceed to hearing at this time on the existing EBS contention.

HUNTON & WILLIAMS

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Page 3

LILCO regrets that circumstances beyond its control have repeatedly forced reconfiguration of its EBS plans. However, emergency plans always change to adapt to circumstances, and further changes will doubtless occur in this plan, perhaps even in this very area, over time.

Sincerely yours,



Donald P. Irwin  
James N. Christman  
K. Dennis Sisk

Attachment

cc: Attached Service List

EMANUELSON AND CHURCH

ATTORNEYS AND COUNSELLORS

PLEASE REPLY TO:

205 CHURCH STREET  
NEW HAVEN, CONNECTICUT 06510

HERBERT L. EMANUELSON JR.  
MARGARET KEIZER CHURCH  
ROBERT W. CHURCH, JR.  

---

ERIC I. EMANUELSON

205 CHURCH STREET  
NEW HAVEN, CONNECTICUT 06510  
TELEPHONE: (203) 862-8177

128 CHURCH STREET  
NEW HAVEN, CONNECTICUT 06510  
TELEPHONE: (203) 862-0300

May 9, 1988

Mr. Ira L. Freilicher  
Long Island Lighting Company  
175 East Old Country Road  
Hicksville, New York 11801

Dear Ira:

This letter is to provide notice that WPLR is amending its June 17, 1987, Agreement with LILCO pursuant to such Agreement as follows:

Until further notice, WPLR-FM will continue service as a primary broadcast station to provide Emergency Public Notification during Shoreham's current licensure. WPLR-FM, however, will not act in that capacity should the NRC grant licensure to full power. Should the community need then exist in the plant's full power operation, WPLR would consider serving in a secondary capacity.

Sincerely,

Herbert L. Emanuelson, Jr.  
Counsel for WPLR-FM

HLE/gml  
cc: Manuel V. Rodriguez

Emergency Broadcast System (EBS)

The Emergency Broadcast System, or EBS, is a federally sponsored network of radio and television stations that provides a rapid means of contacting the public during emergency situations. 47 C.F.R. Part 73, Subpart G, Section 73.901, et seq. It operates on National, State, and Operational Area (Local) levels.

The New York State Emergency Broadcast System is activated by a request from authorized officials to the State's Originating Primary Relay Stations: WABC, WNBC, and WCBS in New York City. For emergency situations not involving the entire State, local authorities may request activation of the EBS at the Operational Area level through the Common Program Control Station (CPCS) serving the affected area. New York State Emergency Broadcast System (EBS) Operational Plan (July 1981) at 2. Federal regulations permit the EBS at the State and local level to also be activated at the discretion of the management of the participating broadcast stations, even without the request of government officials, in connection with day-to-day emergency situations posing a threat to the safety of life and property. 47 C.F.R. Section 73.935(a). The New York State EBS Plan implementing the federal structure specifically includes "radiological incidents" within this class of life- or property-threatening events. New York State EBS Operational Plan at 2.

The State-level EBS applicable to Shoreham is the New York State system. The local Operational Area system applicable to Shoreham is the Nassau-Suffolk Counties Operational Area. The New York State EBS Operational Plan specifies the composition of and basic procedures for the State and Operational Area systems.

The EBS for the Nassau and Suffolk Counties Operational Area is comprised of over 30 Long Island radio stations. The New York State EBS Plan designates WCBS in New York City as the primary originating station (referred to as "PRI CPCS-1") for the Nassau and Suffolk Counties operational area. WCBS is a fifty kW clear-channel, 24-hour AM station whose signal provides coverage over the entire Shoreham 10-mile EPZ. With its cascading relays it ensures redundant coverage of the Shoreham EPZ. Included in the State network is WALK in Patchogue, formerly the CPCS in the Shoreham local EBS.

In the event of a Shoreham emergency declaration, the Director of Local Response will seek permission from the Suffolk County Executive, or his designee, to activate the Nassau-Suffolk Operational Area EBS prior to issuing an EBS message. OPIP 3.1.1, Attachment 10, Step D. In the event that the LERO Director is unable to contact the Suffolk County Executive or some other responsible County official in a timely manner, the LERO Director will seek permission from New York State to activate the EBS through the New York State Emergency Management Office (SEMO). SEMO is designated by the New York State EBS Operational Plan at 4 as being responsible for activating the State level EBS.

The Director of Local Response will request the official WCBS-EBS authentication code for WCBS or, as necessary, other authentication assistance from pertinent County of State officials. If that official is unable to provide the official authentication code information for WCBS in a timely manner, the LERO Director will, using his best judgement in light of emergency circumstances, request official permission to contact WCBS directly and will ask WCBS to verify by return phone call, in accordance with the Nassau-Suffolk Operational Area EBS implementation procedures. The LERO Director, or the LERO Coordinator of Public Information, will then activate the EBS system as detailed in OPIP 3.3.4 and 3.8.2, Section 5.1.4. LERO's procedures for activating the Nassau-Suffolk Operational Area EBS and broadcasting emergency information conform directly with the existing implementation procedures in the Nassau-Suffolk Operational Area EBS Plan. OPIP 3.8.2, Section 5.1.4(b)(1)-(5). If there is any problem or delay in obtaining authentication with WCBS, the LERO Director, using his best judgement, in his discretion will seek permission to activate the Shoreham Local EBS network which is a backup to the New York State system based on WCBS. OPIP 3.1.1, Attachment 10, Step D.

The Shoreham local emergency broadcast network consists of 10 radio stations on Long Island and Connecticut. LILCO's letters of agreement with these stations are contained in Appendix B. All of the Long Island radio stations participating in the Shoreham local EBS network are also participants in the State EBS for the Nassau-Suffolk Operational Area, including WGLI in Babylon. The availability of this backup network as a last resort ensures that in case of a problem or delay in activating the WCBS-based EBS, a coordinated and accurate emergency information message can be broadcast to the public.

WPLR radio is an FM band station which broadcasts from Hamden, Connecticut and provides coverage over the entire Shoreham EPZ. WPLR has agreed to serve as the CPCS for the Shoreham local EBS until the issuance of a full power operating license, and, if needed, to remain a member station thereafter. WPLR has a backup electrical generator to ensure full power transmission even during periods of power outages. LILCO maintains a dedicated telephone line from the EOC in Brentwood to WPLR's studio. An EBS message can be provided to WPLR either directly via dedicated line or from another radio station's broadcast signal. Upon activation of WPLR's dual tone EBS signal, the other participating stations in Connecticut and Long Island will tune to WPLR and rebroadcast an EBS message coming from the LERO EOC.

Because the Long Island radio stations that are part of the Shoreham local emergency broadcast network are also part of the WCBS network, they will switch their source signal to WCBS when WCBS is functioning as the CPCS for the emergency. The Connecticut stations will direct their Long Island listeners to tune to WCBS for emergency information.

Sample EBS messages used by LERO and details of EBS activation are contained in OPIP 3.8.2.

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Press Conferences

Press conferences will be conducted periodically in the Press Conference Room of the ENC. Private and public agency/or organization representatives (i.e., American Red Cross, Suffolk County, FEMA, NRC, State officials, etc.) will be invited to join LERO workers at the ENC to participate as a panel in all press conferences to provide up-to-date information, respond to any rumor received, and answer any questions the media may have. This panel will also be invited to help disseminate any emergency announcements including accident termination ("ALL CLEAR") announcements.