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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
11/18/88

ATOMIC SAFETY AND LICENSING APPEAL BOARD

DEC -1 A9:24

Administrative Judges:

Christine N. Kohl, Chairman
Alan S. Rosenthal
Dr. W. Reed Johnson

OFFICE OF SECRETARY
NOVEMBER 30, 1988

SERVED DEC -1 1988

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

Docket No. 50-322-OL-6
(25% Power)

MEMORANDUM AND ORDER

In a memorandum and order issued November 28, 1988, we stated our intent to dispose of two pending motions in this proceeding -- the intervening Governments' motion for a stay of the Licensing Board's November 21 decision authorizing the issuance of a 25% power operating license to LILCO, and LILCO's motion for directed certification of the same Licensing Board decision to the Commission -- at the same time and as expeditiously as possible. We established a receipt date of December 5 for replies to both motions. The NRC staff, by motion filed November 29, seeks an enlargement of that time, until December 8. The staff lists a number of other matters pending in this proceeding and states that the due date for its responses to the two instant motions adversely affects its ability to respond and to allocate resources to these other pending matters. The staff also

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asserts that there is little cause for the "degree of expedition" ordered in this matter.

Under the Rules of Practice, the due date for the staff's reply to the Governments' motion for a stay is December 5 and, thus, our order did not deprive the staff of any time to which it would ordinarily be entitled.¹ It is also our long established practice, given the nature of the request involved, to rule on stay motions as promptly as possible and to deny requests for enlargement of time to respond. Similarly, we rule on motions for certification (like LILCO's) promptly, and note that, here, LILCO asked for both expedited replies to its motion and an expedited ruling on our part.²

¹ The Governments' motion for a stay was filed and served on the staff by hand on November 23, 1988. See 10 C.F.R. §§ 2.788(d), 2.710.

² In light of LILCO's request for expedition and the fact that the staff's motion for more time necessarily requires immediate attention, the staff should have attempted to ascertain if LILCO or the Governments object to its request and advised us of their views. We have undertaken to learn the other parties' views in this instance. (LILCO has no objection, and the Governments also do not object, providing unforeseen circumstances do not require a more expeditious ruling on their stay motion.) The staff and others, however, are on notice that disposition of similar requests in the future will simply await the receipt of replies -- which may, of course, be too late to aid the movant.

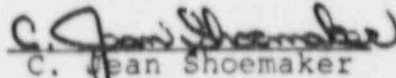
The staff has not fully supported its request for more time to respond to the two motions pending before us.³ Moreover, in light of the extraordinary circumstances of this proceeding and the issues raised by both motions, it remains our judgment that the two motions must be considered together and promptly. We therefore grant the staff's motion only in part. The staff's responses to both the Governments' and LILCO's motions are to be received by us no later than 4:00 p.m. on December 7, 1988.⁴ The replies of the other parties remain due as specified in our November 28 memorandum and order.

³ Specifically, the staff has failed to particularize its claim of adverse impact on the allocation of its resources. See Public Service Co. of New Hampshire (Seabrook Station, Units 1 and 2), ALAB-889, 27 NRC 265, 270 (1988).

⁴ In this instance, the staff should not send its reply to Dr. Johnson in Charlottesville; it should be delivered or transmitted to the Appeal Panel's office along with the other Board members' copies. LILCO and the Governments, however, should still send their replies to Dr. Johnson at his Charlottesville address by express mail on December 5.

It is so ORDERED.

FOR THE APPEAL BOARD


C. Jean Shoemaker
Secretary to the
Appeal Board

Dr. Johnson concurs in this order but was unavailable to review the final draft.