

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE COMMISSION

DOCKETED
USNRC

'86 JUL 22 P3:02

OFFICE OF SECRETARY
DOCKETING SERVICE
BRANCH

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

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

SUFFOLK COUNTY, STATE OF NEW YORK, AND TOWN OF
SOUTHAMPTON SUPPLEMENTAL ANSWER TO LILCO'S
PETITION FOR REVIEW OF ALAB-832

This Supplemental Answer is in further support of the Answer to LILCO's Petition for Review of ALAB-832 filed by Suffolk County, the State of New York and the Town of Southampton (the "Governments") on April 22, 1986.¹ LILCO's Petition sought review of five alleged errors supposedly embodied in ALAB-832, including the Appeal Board's reversal of the ASLB's decision on the adequacy of the Nassau Coliseum as a reception center and its refusal to consider the Governments' proffered testimony on that subject. In their Answer, the Governments demonstrated why the Appeal Board was correct in its relocation center rulings and urged the Commission to deny the LILCO Petition.

1 Suffolk County, State of New York, and Town of Southampton Answer to LILCO's Petition for Review of ALAB-832 (April 22, 1986) (hereafter, "Answer").

Subsequent to the filing of the Answer, however, an event occurred which provides substantial additional support for the Governments' position that the Appeal Board must be affirmed on this issue: the Nassau County Board of Supervisors barred LILCO's use of the Coliseum. The Commission has not yet ruled on the Petition, but apparently intends to do so in the near future. CLI-86-11 at 2. The purpose of this Supplemental Answer is to bring this recent action to the attention of the Commission and explain its significance with respect to ALAB-832 to ensure that the Commission takes this event into account in its decision on ALAB-832.

Discussion

Attached hereto as Attachments I and II are resolutions adopted by the Nassau County Board of Supervisors on June 16, 1986, and signed into law that same day by Henry W. Dwyer, Acting Nassau County Executive. In pertinent part, the resolutions state:

RESOLVED, that the purported designation of the Nassau Veterans Memorial Coliseum by the Long Island Lighting Company as a Nuclear Disaster Evacuation Center be and the same is hereby declared a nullity, contrary to law and void; and be it further

RESOLVED, that no Nassau County facilities, including the Nassau Veterans Memorial Coliseum, are or will be available for the use by the Long Island Lighting Company, or by the Facility Management Corporation of New York, Inc., as part of the Long Island Lighting Company emergency plan, unless prior approval by resolution is first obtained from the Nassau County Board of Supervisors;

Thus, it is clear that: (1) there is no agreement between Nassau County (which owns the Nassau County Veterans Memorial Coliseum) and LILCO or any other entity for the use of that facility as part of LILCO's Plan for Shoreham; (2) the Board of Supervisors is the entity with the authority and responsibility to make the decision to permit use of the Coliseum as a reception center in the event of a Shoreham emergency; (3) the Board of Supervisors has decided not to permit such use, and no such use can take place in the future without the prior approval of the Board; and (4) no other Nassau County facilities will be available for use by LILCO in implementing its Plan for Shoreham.

These resolutions mean that once again there exists a substantial void in the record. The identical situation in 1984 gave rise to the ASLB's permitting LILCO an unprecedented fourth try to meet its burden of demonstrating the existence, availability and adequacy of a facility as a "reception center" for the radiological monitoring and decontamination of evacuees. LILCO attempted to meet that burden by asserting that the Nassau Coliseum was available and a part of the LILCO Plan. That LILCO argument was the subject of the "relocation center litigation" in 1985, which culminated in the ASLB's August 26, 1985, decision. LBP-86-31, 22 NRC 410 (1985), rev'd, ALAB-832, 23 NRC 135, 157-62 (1986). In that litigation, the Governments consistently maintained, among other things, that the so-called "agreements" relied upon by LILCO to support its claim that the Coliseum was

available to be a reception center, were invalid. That was one of many issues which the Margulies ASLB erroneously refused to permit the Governments to litigate. Clearly, LILCO's Plan now includes no reception center at all, much less one for which there exist valid agreements, or one which has adequate facilities and services to accommodate and perform radiological monitoring and decontamination of over 100,000 evacuees.² The resolutions constitute additional, conclusive support for the Appeal Board's reversal in ALAB-832 of the ASLB's findings concerning the adequacy of the Nassau Coliseum as a reception center.

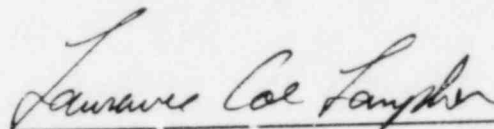
Moreover, the resolutions mandate that this Commission rule finally on the relocation center issue, rather than remanding for additional litigation as suggested by the Appeal Board. Since there is now no relocation facility in the LILCO Plan, there is nothing that needs to be litigated. LILCO clearly does not comply with 10 CFR § 50.47 in that it has identified no facility for the relocation, radiological monitoring, or decontamination of evacuees. This obviously constitutes a critical defect in LILCO's plan, which mandates immediate denial of LILCO's operating license application.

2 During the February 13 Shoreham exercise, the LILCO exercise "players" "recommended" that over 100,000 evacuees report to the Nassau Coliseum for monitoring and possible decontamination because, given the accident scenario in the exercise, that number of EPZ residents were potentially exposed to radiation during their supposed evacuation efforts.

For the foregoing reasons in addition to those set forth in the Governments' Answer, LILCO's Petition for Review of ALAB-832 should be denied. The Commission should find for the Governments on the relocation center issues and deny LILCO an operating license.

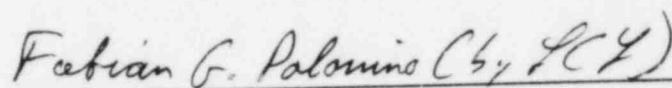
Respectfully submitted,

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July 22, 1986

DOCKETED
USNRC

'86 JUN 27 P2:01

OFFICE OF DOCKETING
BRANCH
RESOLUTION NO. 787-1986

A RESOLUTION RELATIVE TO THE USE OF THE NASSAU VETERANS
MEMORIAL COLISEUM IN A LONG ISLAND LIGHTING COMPANY'S EVACUATION
PLAN.

(Passed by Board of Supervisors on JUNE 16 1986
Votes for 128 ; votes against, none. Became a
resolution on JUNE 16 1986 with the approval
of the Acting County Executive.)

WHEREAS, the Long Island Lighting Company has entered
into an agreement with the Hyatt Management Corporation of New
York, Inc., which purports to designate the Nassau Veterans
Memorial Coliseum as a Nuclear Disaster Evacuation Center, and

WHEREAS, the County Attorney of the County of Nassau
has advised the Board of Supervisors as follows:

"....The terms of the lease do not allow such a
use by the tenant. The provisions of the New
York State Executive Law preempts to the Governor
and the County Executive the implementation of
all facilities within the territorial limits
of the disaster area in the event of a nuclear
(radiological) disaster.

....The proposed amendment to the lease agreement prohibiting the use of the Nassau Veterans Memorial Coliseum as an evacuation center in the event of a nuclear (radiological) catastrophe would be a nullity."

now, therefore be it

RESOLVED, that the purported designation of the Nassau Veterans Memorial Coliseum by the Long Island Lighting Company as a Nuclear Disaster Evacuation Center be and the same is hereby declared a nullity, contrary to law and void; and be it further

RESOLVED, that a copy of this resolution shall be forthwith served upon the Long Island Lighting Company and Facility Management of New York, Inc., formerly known as Hyatt Management Corporation of New York, Inc., and filed with notice of such service with the office of the Nuclear Regulatory Commission at Washington, D.C.; and be it further

RESOLVED, that a copy of this resolution shall be forthwith published in the official newspaper of the County of Nassau.

APPROVED: JUNE 16
HENRY W. DWYER
Acting County Executive

STATE OF NEW YORK
COUNTY OF NASSAU

} ss. :

No. **P** 30096

I, JOHN A. DeGRACE Clerk of the Board, Nassau County Board of Supervisors, do hereby certify that the foregoing is a true and correct copy of the original Resolution No 782-1986 duly passed by the Board of Supervisors of Nassau County, New York, on June 16, 1986 and approved by the County Executive on June 16, 1986 and on file in my office and recorded in the record of the proceedings of the Board of Supervisors of the County of Nassau and is the whole of said original.

986

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said Board of Supervisors,

this 23rd day of June,

in the year one thousand nine hundred and ninety-six

John A. DeGrace

JOHN A. DeGRACE

Clerk of the Board

Nassau County Board of Supervisors



DOCKETED
USMRC

'86 JUN 27 P2:01

RESOLUTION NO. 782B-1986

OFFICE OF THE CLERK
DOCKETING & SERVICE
BRANCH

A RESOLUTION AMENDING A RESOLUTION ENTITLED: " A
RESOLUTION RELATIVE TO THE USE OF THE NASSAU VETERANS MEMORIAL
COLISEUM IN A LONG ISLAND LIGHTING COMPANY'S EVACUATION PLAN."

(Passed by Board of Supervisors on JUNE 16 1986
Votes for 108 ; votes against, NONE . Became a
resolution on JUNE 16 1986 with the approval
of the Acting County Executive.)

WHEREAS, the Long Island Lighting Company has entered
into an agreement with the Hyatt Management Corporation of New
York, Inc., which purports to designate the Nassau Veterans
Memorial Coliseum as a Nuclear Disaster Evacuation Center, and

WHEREAS, the County Attorney of Nassau County has advised
the Board of Supervisors that the terms of the lease between Nassa
County and the Facility Management Corporation of New York, Inc.,
do not allow for such use of the Nassau Veterans Memorial Coliseum
and now, therefore be it

RESOLVED, that the purported designation of the Nassau
Veterans Memorial Coliseum by the Long Island Lighting Company as
a Nuclear Disaster Evacuation Center be and the same is hereby
declared a nullity, contrary to law and void; and be it further

RESOLVED, that no Nassau County facilities, including
the Nassau Veterans Memorial Coliseum, are or will be available
for the use by the Long Island Lighting Company, or by the Facil
Management Corporation of New York, Inc., as part of the Long
Island Lighting Company emergency plan, unless prior approval by
resolution is first obtained from the Nassau County Board of
Supervisors; and be it further

STATE OF NEW YORK
COUNTY OF NASSAU

ss.:

No. **P** 30097

I, JOHN A. DeGRACE Clerk of the Board, Nassau County Board of Supervisors, do hereby certify that the foregoing is a true and correct copy of the original Resolution No. 7823-1986 duly passed by the Board of Supervisors of Nassau County, New York, on June 16, 1986 and approved by the County Executive on June 16, 1986 and on file in my office and recorded in the record of the proceedings of the Board of Supervisors of the County of Nassau and is the whole of said original.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said Board of Supervisors, this 23rd day of June in the year one thousand nine hundred and eighty-six

John A. DeGrace
JOHN A. DeGRACE
Clerk of the Board
Nassau County Board of Supervisors

38-1008 9/84



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Commission

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 SUFFOLK COUNTY, STATE OF NEW YORK, AND TOWN OF SOUTHAMPTON MOTION FOR LEAVE TO FILE SUPPLEMENTAL ANSWER TO LILCO'S PETITION FOR REVIEW OF ALAB-832 and SUFFOLK COUNTY, STATE OF NEW YORK, AND TOWN OF SOUTHAMPTON SUPPLEMENTAL ANSWER TO LILCO'S PETITION FOR REVIEW OF ALAB-832 have been served on the following this 22nd day of July 1986 by U.S. mail, first class, except as otherwise noted.

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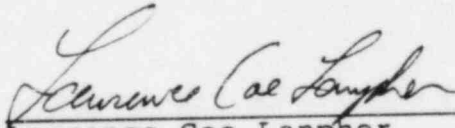
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Date: July 22, 1986

*
By Hand

**
By Federal Express