

April 30, 1987

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)

RESPONSE OF SUFFOLK COUNTY TO THE LILCO
MOTION TO STRIKE TESTIMONY OF RADFORD ET AL.

Suffolk County hereby opposes the LILCO Motion To Strike
Testimony Of Radford Et Al., dated April 18, 1987 ("Motion to
Strike").

BACKGROUND

LILCO seeks to strike portions of the Testimony of Edward P.
Radford, Gregory C. Minor, Susan C. Saegert, James H. Johnson,
David Harris and Martin Mayer ("Radford et al. Testimony") con-
cerning the behavioral effects of LILCO's monitoring and decon-
tamination procedures and how those behavioral effects will delay
and complicate LILCO's monitoring and decontamination efforts.
The proffered testimony specifically addresses the monitoring,
decontamination, and public health and safety issues which have

been admitted by the Board. See Memorandum and Order (Rulings on LILCO Motion to Reopen Record and Remand of Coliseum Issue) (Dec. 11, 1986), at 16-18 ("December 11 Memorandum and Order").

LILCO's central argument in seeking to strike portions of the Radford et al. Testimony is that the County seeks to relitigate issues previously addressed in this Board's Partial Initial Decision, LBP-85-12, 21 NRC 644 (1985) ("PID"). However, LILCO's argument is flawed by: (1) its mischaracterization of the County's testimony; (2) its failure to recognize the issues specifically identified by the Board; and (3) its mischaracterization of the PID. Because the testimony is within the scope of this hearing and has not been previously litigated, LILCO's Motion to Strike must be denied.

DISCUSSION

LILCO seeks to strike four specific portions of the Radford et al. Testimony:

- 1) Section V.B relating to the effect of evacuee behavior on LILCO's ability to monitor evacuees (pp. 20-28).
- 2) A sentence stating that the anxiety of contaminated individuals will cause further delays in the decontamination process (p. 30);
- 3) A question and answer explaining how evacuee anxieties will delay LILCO's decontamination procedures (pp. 30-31); and
- 4) A sentence stating that behavioral problems which will occur as a result of LILCO's decontamination

procedures will cause lengthy delays in LILCO's decontamination process (p. 38).

The admissibility of the first listed item will be discussed first. Because the last three contested items are closely related, they will be discussed as a single item below.

A. The Section V.B Testimony

LILCO first seeks to strike the testimony presented in Section V.B of the Radford et al. Testimony, with the exception of one passage. The testimony in question, however, is clearly relevant to issues concerning the adequacy of LILCO's monitoring procedures.

1. The Testimony

The testimony at issue establishes that anxiety and frustration will lead to behavioral results which will significantly delay LILCO's monitoring efforts -- namely, diminished ability to follow instructions, persistent and extensive questioning, and occasional aggressive behavior towards LILCO monitoring personnel. See Radford et al. Testimony at 22. This fear and anxiety will result directly from LILCO's proposed reception center scheme. Specifically, under the LILCO Plan, people seeking monitoring after having been told that they may be contaminated, will be delayed in reaching the LILCO sites by severe traffic congestion. Once at the monitoring stations, they

may be subject to monitoring procedures under which only the driver of the vehicle will be monitored. LILCO Testimony, Attachment R (OPIP 3.9.2) at 9a; Attachment P (Draft Materials) at 9c. Furthermore, only certain portions of the body will be monitored. These procedures are likely to result in frustration and anger because many people will perceive that their goal of being monitored is being frustrated. Such procedures and their behavioral results have never before been litigated in this proceeding.

2. The Issues

The testimony is offered to assist the Board in resolving at least three of the issues specifically identified as the subject of the reopened hearing:

- 1) Whether LILCO's monitoring procedures are adequate;
- 2) Staff requirements given LILCO's new reception center scheme; and
- 3) Whether the proposal to send evacuees to LILCO parking lots could or would ever be implemented in a way to protect the public health and safety.

See December 11 Memorandum and Order at 17-19. As the testimony makes clear, the behavioral responses of evacuees will hinder LILCO's ability to monitor EPZ residents in compliance with its 100-second estimate. If this 100-second estimate is not met, then LILCO can actually accommodate far fewer of the EPZ population than the 30% it now claims. Since the testimony at issue is

directly relevant to issues specifically identified by the Board, the testimony is properly within the scope of these proceedings and should be admitted.

3. LILCO's Argument

LILCO argues that the testimony at issue must be stricken because the County seeks to relitigate issues already addressed in the earlier emergency planning proceeding. In making this argument, LILCO seizes on certain buzz words such as "hostility" and "aggression" and concludes that because these human traits were discussed in connection with certain earlier litigated issues, they cannot be discussed in connection with any further issues. This simplistic approach must be rejected.

The testimony previously advanced by the County's witnesses concerned the impact of the public's general fear of radiation and the stress generated by an emergency on LILCO's evacuation time estimates.

Here, however, the issue is different. The testimony presented does not purport to address the evacuation time estimate issues already litigated. Rather, the testimony concerns the adequacy of LILCO's monitoring procedures which themselves will give rise to anxiety and stress because the procedures will frustrate the evacuees' goal of being monitored in a timely fashion. Thus, the County's testimony does not focus in the abstract on the stress induced by a radiological emergency (although that stress cannot be ignored). Instead, the testimony

focuses directly on LILCO's monitoring scheme and how it may cause certain adverse behavioral consequences. The behavioral effects noted will hinder LILCO's monitoring procedures by rendering evacuees less able or willing to comply with LILCO's procedures. Hence, the testimony regarding behavioral effects is essential to a full consideration of the adequacy of LILCO's monitoring procedures. Moreover, there has been no previous litigation of the issues presented in this testimony. Accordingly, the LILCO Motion to Strike must be denied.

B. The Decontamination Testimony (Items 2-4)

The three portions of testimony related to decontamination procedures which LILCO seeks to strike are also properly offered into evidence. See Radford et al. Testimony at 30-31, 38. The testimony in question concerns the effects of evacuee behavior on LILCO's efforts to decontaminate EPZ residents. The testimony is relevant and material to the issues specifically admitted by the Board. Moreover, the previous litigation never addressed decontamination procedures and the manner in which behavioral effects will affect them.

1. The Testimony

The testimony at issue refutes LILCO's claim that less than 10% of the contaminated evacuees will require showering and concludes that LILCO's low projection will lead to lengthy delays

in the decontamination process. The root cause of the delays will be the high percentage of contaminated persons who will insist on thorough decontamination procedures -- nothing less than full showering and remonitoring -- rather than merely accept the removal of contaminated clothing or even localized washing of affected skin at the sinks.

2. The Issues

The Board has specifically admitted the issue of whether the LILCO reception center scheme could ever be implemented in a way to protect public health and safety. See December 11 Memorandum and Order at 18-19. The issue raises the question of whether there are any factors which will impede LILCO's decontamination process, a central determinant of LILCO's ability to execute its emergency response in a manner which will adequately protect public health and safety. To the extent that evacuee frustration and anxiety will produce delays and other problems not contemplated by LILCO's Plan and procedures, these behavioral effects will directly affect public health and safety by increasing the time required to decontaminate individuals exposed to radiation.

3. LILCO'S Argument

LILCO mischaracterizes the testimony in question as "yet another attempt to reopen the already-litigated issues of anxiety, hostile behavior, and inability or unwillingness to

follow emergency advisories." Motion to Strike at 3. However, the testimony regarding behavioral effects is not offered with respect to human behavior in the abstract. Instead, it addresses how adverse behavior will develop directly as a result of LILCO's decontamination procedures and, in turn, how that behavior will affect LILCO's ability to decontaminate evacuees in a manner which minimizes the period of exposure.

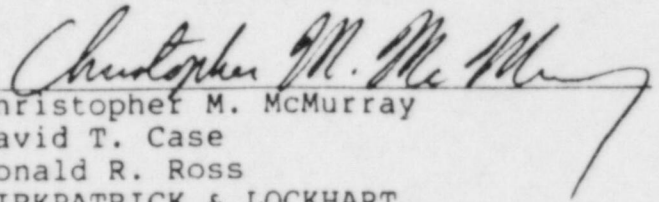
LILCO errs by focusing only on buzz words and ignoring the purpose for which the testimony is offered. The testimony in question is offered solely to demonstrate how evacuee behavior -- caused by LILCO's own procedures -- will hinder LILCO's decontamination procedures. This has never been litigated before and has a direct impact on LILCO's ability to adequately provide for the public health and safety in the event of a radiological emergency at Shoreham.

CONCLUSION

For the foregoing reasons, the proffered Radford et al. Testimony is admissible and the LILCO Motion to Strike should be denied.

Respectfully submitted,

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