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EXHIBIT NUMBER 50-322-01-5

United States Senate

WASHINGTON, DC 20510

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USNRC

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September 26, 1986.

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The Honorable Morton B. Margulies
Atomic Safety and Licensing Board
Nuclear Regulatory Commission
Washington, D.C. 20555

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Dear Judge Margulies:

As a follow-up to my limited appearance statement before the Atomic Safety and Licensing Board on September 23, 1986, I am submitting a series of contentions regarding the Shoreham nuclear power plant. These are matters which were addressed repeatedly during the statements before the Board on September 23rd, 25th, and 26th, and they constitute issues that must be considered in the licensing hearing for Shoreham.

It is clear from the statements presented to the Board that the people of Long Island are afraid. They are afraid that no one is truly considering vital safety issues at Shoreham. They are afraid that there is a pre-existing determination to license Shoreham which will prevent full consideration of these issues during the licensing hearing. They are afraid that we have not really learned our lessons from Three Mile Island and Chernobyl. They are afraid that the Nuclear Regulatory Commission and the Atomic Safety Licensing Board are simply going through the motions and are not really paying any attention to the legitimate concerns of the residents of Long Island. I share these fears.

I therefore urge the Atomic Safety and Licensing Board to accept the following four contentions for litigation. I believe they are matters that clearly expose the inadequacy of LILCO's February 13 exercise. Each of these contentions follows the pleading requirements of NRC regulations: their bases are NRC regulatory requirements; they are drafted with specificity; and the parties to the proceeding are given notice of what to litigate.

Contention 1

NRC regulations provide that the NRC "shall" base its emergency preparedness conclusions on the finding of FEMA. Following the February 13 exercise, FEMA refused to make a finding. However, the then-Director of FEMA Region II, Mr. Frank Petrone, found and publicly announced that the exercise did not provide a basis to conclude that there is a reasonable assurance that LILCO's emergency plan can adequately protect the public. FEMA headquarters in Washington forced Mr. Petrone to resign when he would not retract his

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statement. In testimony before the ASLB on September 25, 1986, Mr. Petrone stated, "My lasting reservations and warnings about the lack of adequate emergency planning for Shoreham continue...." He also said with respect to the February 13 exercise, "...The scope of the exercise was so limited, the initial findings significant, and the capabilities of government resources impossible to measure, that in any other operating plant, immediate action would be taken. This test can only conclude that the state of emergency preparedness for Shoreham is virtually nonexistent in light of your own regulations and standards. It is clear to me that there is no satisfactory or workable plan for Suffolk county...." Mr. Petrone concluded, "...The major deficiencies cited should have been enough evidence for the NRC to immediately act and deny any operating license for Shoreham."

Accordingly, the Licensing Board must find either: (1) that there is no FEMA finding on which the NRC "shall" base its conclusion and, therefore, unless and until FEMA submits such a finding, this proceeding must be summarily ended; or (2) that the FEMA finding was the statement made by FEMA's former Region Director and, therefore, there is no reasonable assurance that LILCO's plan can adequately protect the public.

Contention 2

NRC regulations require that the Licensing Board consider new information relevant to the safety of the public. The Chernobyl accident is such new information. In light of Chernobyl, the preponderance of people on Long Island would react to a Shoreham accident by immediately seeking to save themselves and their loved ones from Shoreham's radiation as fast as possible. The knowledge that people already have about the impossibility of evacuating on Long Island's few and congested roadways, coupled with the fact that serious radioactive doses at Chernobyl required the evacuation of all people within at least 18 miles, would cause the public on Long Island to ignore LILCO's emergency plan and would create an uncontrollable situation where the public would be trapped. A recent Newsday poll showed that if the public were informed of an accident at Shoreham, roughly 1.8 million of Long Island's citizens would immediately rush to evacuate. This obviously would lead to a gridlock. Long Islanders, therefore, would be endangered by the very radiation that the emergency plan is designed to help them escape.

Contention 3

NRC regulations provide that an emergency planning exercise be a basis for determining whether adequate protective measures can and will be taken. The February 13 exercise provides no such basis, because (1) it was irrelevant to the actual conditions on Long Island; (2) it made believe that 130,000 people were evacuated

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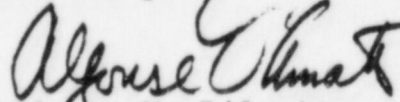
without major problems; (3) it ignored the effects of a large-scale voluntary evacuation of hundreds of thousands of people; and (4) it was based on a scenario that LILCO wrote for itself and which did not include difficult tasks for LILCO. Therefore, there is no basis for the results of the exercise to support a finding that LILCO's plan can be implemented so as to adequately protect the public.

Contention 4

FEMA's evaluation of the February 13 exercise was wholly inadequate. Instead of performing its duties in accordance with FEMA's obligation to the public and its enabling legislation, FEMA acted as a mere puppet for LILCO. The NRC is going along with the exercise and is using its personnel and resources to further this deception. FEMA's evaluation of the exercise is, therefore, tainted, and it must be rejected as such by the Licensing Board.

I ask that you consider these contentions in the forthcoming licensing hearings for Shoreham. I believe it is vital that these issues be fully addressed so that the safety of the residents of Long Island may be protected. I realize that a request for the Atomic Safety and Licensing Board to "slow down, stop, and think" may seem unnecessary when dealing with a plant that is already more than ten years behind schedule, but I assure you that it is not. It is time that the concerned citizens of Long Island whom I represent not just be heard, but be listened to. It is time that we deal with the facts of this particular, unusual case.

Sincerely,



Alfonse M. D'Amato
United States Senator

cc.: The Honorable Lando W. Zech
The Honorable Jerry R. Kline
The Honorable Frederick J. Shon