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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Morton B. Margulies, Chairman
Dr. Jerry R. Kline
Mr. Frederick J. Shon



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| In the Matter of<br><br>LONG ISLAND LIGHTING COMPANY<br><br>(Shoreham Nuclear Power Station, Unit 1) | Docket No. 50-322-OL-3<br><br>(ASLBP No. 86-533-01-OL)<br><br>October 29, 1986 |

CLARIFYING DECISION ON REMAND
(Monitoring of Evacuees)

## Introduction

This Board issued two decisions on LILCO's application for an operating license for the Shoreham Nuclear Power Station. The first covered most of the contested issues.[1] In a second and concluding partial initial decision we dealt primarily with the adequacy of the Nassau County Veterans Memorial Coliseum (Coliseum) as a reception center for the monitoring, decontamination and transferring to sheltering facilities of evacuees from the Shoreham EPZ in the event of

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1 LBP-85-12, 21 NRC 644 (1985).



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an emergency.[2] LILCO raised on appeal three issues considered in the decisions. The subject of the remand discussed in this decision, the monitoring of evacuees, was first considered in the concluding partial initial decision. The other issues on appeal, conflict of interest and the lack of a state emergency plan, were decided in the first initial decision.

The Appeal Board on September 19, 1986, issued a decision disposing of the three issues.[3] Two of the issues were remanded to us for further clarification and on the third we were reversed. Intervenors have sought Commission review of the Appeal Board's decision on the two issues other than the monitoring of the evacuees. We do not discuss those issues in this decision on remand. We clarify here our decision on the monitoring of evacuees and reach the same decision we did in the concluding partial initial decision, that the record is unclear as to how the Coliseum can accommodate the evacuees of the general population who will seek monitoring and processing and this constitutes a defect in the LILCO emergency plan.

LILCO's emergency response plan provides for the monitoring, decontamination and sheltering of evacuees requiring such services. In reviewing the adequacy of the plan, we found as to LILCO's planning basis:

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2 LBP-85-31, 22 NRC 410 (1985).

3 ALAB-847, 23 NRC ___ (September 19, 1986).

> LILCO has used an estimate of 20% of the population of the EPZ as the maximum number of persons who would require shelter in the event of an emergency at Shoreham . . . . The maximum population of the EPZ is 160,000, thus LILCO's planning is based on a maximum of 32,000 seeking shelter. LILCO did not justify how this number could be related to the number of persons who might seek monitoring. The Board finds that the number of persons expected to seek shelter in the event of a disaster is not necessarily the same as the number of persons who might seek monitoring in the event of a radiological accident.
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> We accept LILCO's planning basis for the number of evacuees who might seek shelter, be processed through the relocation center and . . . must thus be monitored . . . . The record is unclear as to how the Coliseum could accommodate the evacuees of the general population who will seek monitoring and processing, aside from those seeking shelter. We therefore find that LILCO's failure to plan for those of the general population who seek only monitoring and processing constitutes a defect in the plan.[4]

LILCO appeals from the Board's conclusion that the Applicant must estimate and plan for the number of evacuees who are likely to come to the Coliseum for radiological monitoring and decontamination apart from planning for the evacuees who seek shelter. LILCO asserts that the Board's decision must be reversed because it addresses matters outside the scope of the issues admitted for litigation and imposes an obligation not justified by any NRC planning requirement or guidance.

The Appeal Board returned the matter to us to consider in the first instance whether the issue was properly raised for litigation. The Appeal Board declined to rule at the time of its decision on LILCO's argument that the obligation imposed by the Board is contrary to

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4 LBP-85-31, 22 NRC at 417.

applicable regulatory requirements. Another question the Board is to answer is whether we intended to revisit the issue of LILCO's plan for evacuees who did not seek sheltering, on reopening the record on the adequacy of the Coliseum, in June 1985. We are to determine whether, in view of the evolution of the LILCO Plan, the issue was reasonably embraced within the concerns presented for litigation.

The Appeal Board alerted us to matters we should take into account when revisiting our earlier conclusion. The text of the proffered contentions was offered as a starting point, to be followed by canvassing the direct testimony submitted in support of the contentions to help determine whether the matter was within the scope of the Intervenors' concerns. We were directed to consider whether LILCO's change in plans affected the Intervenors' ability to formulate the issues for litigation. We were asked to determine whether subsequent changes in the reception and congregate care centers raised new or unique concerns regarding the number of evacuees who would seek monitoring but not sheltering. The Appeal Board seeks an explanation of what it took to be an inconsistency in our exclusion from the reopened proceedings of testimony related to the number of general evacuees that can be expected to use the reception center and the Board's subsequent finding that LILCO had failed to demonstrate how many evacuees will seek monitoring and not sheltering. We are further asked to reexamine our conclusion in light of the Appeal Board's determination in ALAB-832 that the reopened proceeding should have been expanded to permit exploration of additional matters associated with the suitability of the Coliseum

itself. The Appeal Board went on to state that, "Presumably the Board will need to examine the adequacy of any new facility selected by LILCO. In this connection, the Board should consider whether the change in facility itself bears on the question of the need to plan for evacuees who seek monitoring but not sheltering."[5]

## DECISION

The original LILCO plan designated five facilities located in Suffolk County to serve as relocation centers. The relocation centers had dual functions, to operate as reception centers for registering, monitoring and decontaminating evacuees and as shelters for the temporary housing, feeding and providing sanitary facilities for processed evacuees. It was implicit that there would be individuals who would need monitoring and decontamination services, even if they did not need sheltering. However, in the succeeding months, LILCO's plan went through a tortuous evolution and succession of changes resulting from its inability to find suitable relocation centers in Suffolk County. Whenever LILCO identified facilities in the county to be used as relocation centers, the specified centers became unavailable. LILCO ultimately elected to enlist the assistance of the Nassau County Red Cross to find suitable facilities in Nassau County and it filed testimony on this revised plan which was finally heard in this

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5 ALAB-847, 23 NRC ___ (September 19, 1985) (slip op. at 18).

proceeding on August 21, 1984. Cordaro, Rasbury, Robinson and Weismantel, (Cordaro, et al.) ff. Tr. 14707.

The plan called for a split in the reception and sheltering functions which were to be performed at different facilities. The registering, monitoring and decontamination of evacuees was to be performed at possibly two reception centers and the sheltering functions of providing temporary housing, feeding and sanitary facilities for processed evacuees at 50 congregate care centers.

The prefiled testimony and subsequent cross-examination of LILCO's witnesses disclosed the major features of LILCO's new plan in considerable detail. However, the testimony did not identify the reception centers for which the Nassau County Red Cross Executive Director was then negotiating. There followed a controversy among the parties concerning disclosure of the new reception centers. (At that time there was a possibility that two centers would be designated although ultimately only one was identified.) The Board did not compel disclosure of the facilities because negotiations for their use were not complete, however, the Board found the lack of an identified reception center constituted a void in the record. Tr. 14806-07 (Laurenson).

The litigation of relocation center contentions including 24.0 and 75 continued uninterrupted after the Board found that there was a void in the record. Subsequently, the record was closed on August 29, 1984.

The Board initially admitted Intervenors' Relocation Contentions 24.0, 24.P, 74, 75 and 77 to this proceeding which bear on the monitoring and decontamination of evacuees in the event of a

radiological emergency. Others were denied. In the subsequent evolution of LILCO's plans for relocation centers and the functions to be performed in connection with them, Contentions 24.0 and 75 continued to remain relevant to the changed circumstances and Contention 24.0 became the focus of controversy resulting in this remand.

Contention 24.0 was admitted to this proceeding without comment or interpretation by the Board as follows:

> The Plan designates Suffolk County Community College as the relocation center to be used by evacuees from eight of the 19 zones in the EPZ (zones A-E, H-J) and for the children in the Shoreham-Wading River School District. LILCO estimates the population of these to be 18,599 (26,574 in the summer). (See Plan, Appendix A, at IV-87 to 178). Suffolk County Community College is an entity of the Suffolk County government. LILCO has no agreement with Suffolk County to use Suffolk County Community College as a relocation center. Furthermore, pursuant to Suffolk County Resolution No. 456-1982 and Resolution No. 222-1983, the Suffolk County Community College will not be available for use in implementing the LILCO Plan. Therefore, there is no relocation center designated for a significant portion of the anticipated evacuees. Thus, the proposed evacuation of Zones A-E, H-J, and the Shoreham-Wading River School District, cannot and will not be implemented.

Contention 75 stated the following concerns:

> Contention 75. The LILCO Plan provides no estimates of the number of evacuees who may require shelter in a relocation center, and the plan fails to demonstrate that each such facility has adequate space, toilet and shower facilities, food and food preparation areas, drinking water, sleep accommodations and other necessary facilities. Accordingly, there is no assurance that the relocation centers designated by LILCO will be sufficient in capacity to provide necessary services for the number of evacuees that will require them. Thus, LILCO fails to comply with NUREG-0654, Sections II.J.10.g and J.12.

Up to the point of closing the record, there was no significant dispute among the parties as to the appropriate scope of the relocation

center contentions. Contention 24.0 as originally admitted asserted that the facility named as a relocation center was no longer available and that consequently there was no relocation center designated for a significant portion of the anticipated evacuees. The contention specifically stated the total population of the zones to be served by the relocation center and, at the outset, the Board presumed from the wording of the contention that some subset of that population would be identified in testimony as the number that would require service in the event of an emergency. This expectation was later borne out when LILCO stated its planning basis for population in prefiled testimony.

However, at the time of litigation the literal wording of Contentions 24.0 and 75 had been overtaken by events and the contentions were no longer fully applicable to the situation at hand. Aside from changed facilities, this is because LILCO presented a new plan for relocation centers wherein the required services for evacuees would be performed at separate locations. Registration, radiological monitoring and decontamination for all arriving evacuees were to be performed at a facility termed a reception center while sleeping accommodations, food and sanitary services were to be supplied at some 50 other locations in Nassau County that were termed congregate care centers. Cordaro, et al. ff. Tr. 14707 at 15-17; Tr. 14801 Rasbury. No party moved to amend the relocation center contentions to fit the new situation. The Board assumed that the essential concerns expressed by Contentions 24.0 and 75 were still clear and applicable to the new situation and it permitted

litigation to continue uninterrupted. At the conclusion of litigation in August 1984, there existed in the Board's view only a single narrow, albeit important, void in an otherwise valid and complete record. This was the identity of the reception centers where monitoring, decontamination, registration and assignment of evacuees to congregate care centers would be performed and the functional adequacy of the unnamed center for these tasks. LILCO was on adequate notice as early as August 21, 1984 that given the void in the record it might not prevail on Contention 24.0 although the Board expressed no opinion as to what LILCO should do about it.

In transferring the essential concerns of the original relocation center contentions to the new factual situation, it was apparent to the Board that Contention 75 adequately expressed the essential county concerns surrounding the newly disclosed congregate care centers, although it was established in direct testimony that no radiological monitoring or decontamination would be performed at these centers. Thus, litigation of Contention 75 produced a full and complete record in spite of LILCO's revised plans and no subsequent need to reopen on these issues existed. Litigation of Contention 75 established to the Board's satisfaction that LILCO's planning basis for the number of persons seeking public shelter at congregate care centers was adequate. Cordaro et al. ff. Tr. 14707 at 18. This left Contention 24.0 to encompass the county concerns surrounding the unnamed reception centers including the

questions of monitoring and decontamination, since testimony established that these functions would be performed at the new reception centers.[6]

The evolution of LILCO's plans for reception centers had no fundamental bearing on planning for the total number of evacuees who might arrive at such centers. To be sure had there been five centers as originally planned, the total number of evacuees seeking service would have been parcelled out among them. As the plan actually evolved, however, a single reception center was finally designated and the test of adequacy naturally evolved to a determination of whether that center might accommodate by itself the same total number of arriving evacuees. There was no barrier to determining what the total number should be in the planning basis because the essence of LILCO's bifurcated plan for accommodating evacuees had been disclosed in the August 1984 hearing even though the identity of the reception center had not. No reason was ever proposed on the record for believing that the total number of evacuees in need of either monitoring or shelter was somehow dependent on the means for providing these functions. Indeed, it is the thrust of the regulation that the need for services will arise in an accident and that it is the task for planners to estimate and accommodate that need

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6 The Appeal Board remarked in ALAB-832 that in its view Contentions 24.0 and 75 showed that "intervenors essential concern was whether those facilities were adequate to fulfill their purpose if actually called upon to do so." 23 NRC 139, 162, n. 104 (1986). Needless to say, this was the Licensing Board's view throughout the litigation on these issues. No party offered a seriously differing view.

whatever its magnitude. The need for monitoring arises from reasons that are independent of those creating a need for shelter even though both functions are encompassed in a single plan and there is overlap between the groups. Planning, however, must anticipate the total need, not just a part of it.

The question of whether the Coliseum (the only location at which monitoring and processing was to occur) could accommodate the evacuees of the general population who would seek monitoring and processing was properly raised for litigationmust be answered in the affirmative. Also, it was an issue directly addressed by Applicant and Intervenors during the hearing on August 21, 1984. Applicant submitted written testimony on Contention 24.0, whose purpose, in part, was to describe the planning basis for reception centers to be used in the LILCO plan. Cordaro, et al. ff. Tr. 14707, at 5. At that time it was contemplated to have possibly more than one reception center. Applicant was fully cognizant of Intervenors' allegation that the reception centers that were to provide radiological monitoring and decontamination for evacuees had to have sufficient personnel and equipment to monitor evacuees within a 12-hour period, as required by NUREG-0654, Section II.J.12. Id., at 7. It was not disputed that the reception centers had to have the capability of performing monitoring of the evacuees arriving at the reception centers in about a 12-hour period. Tr. 14714-15 (Weismantle).

The evacuees that Applicant expected to arrive at the reception center for monitoring were those who sought sheltering; their number was placed at about 32,000. This was based on a study that showed that the

number of persons who evacuated from disasters and used relocation centers, amounted to 10-20 percent of the population. The disasters on which the study was based were natural disasters. Additionally, Suffolk County planners, in a draft radiological plan, estimated that 20 percent of the seasonal population would require such shelter. The 32,000 figure is 20 percent of the 160,000 plume EPZ seasonal resident population. Cordaro, et al. ff. Tr. 14707, at 18-20.

It was Applicant's belief that the foregoing would cover the usual emergency situation. In what it thought was an unlikely event, that of particulate release and contamination, persons in those limited areas who could have been contaminated would be directed, through the EBS system, to go to the reception centers for monitoring and decontamination. Tr. 14826-28 (Weismantle). Applicant considered as boardering on the impossible the need to direct the entire 160,000 population to the centers for monitoring and decontamination. In response to cross-examination, Applicant's witnesses could not envision such an accident occurring to require evacuating the population of the entire EPZ. Tr. 14828-30 (Weismantle, Cordaro). Applicant offered no estimate beyond 32,000, to cover those evacuees who might be subjected to particulate contamination or any other evacuees in addition to those who would only seek shelter. The study Applicant principally relied upon for its estimate was not related to a radiological emergency and Applicant's estimate does not account for the evacuees in a radiological emergency that might need monitoring.

Intervenors chose not to present a direct case on Contention 24.0 but to make their case only on the basis of cross-examination. Tr. 14,910-14 (McMurray).

The Board was satisfied after the August 1984 litigation that the planning basis for populations that might arrive at reception centers and congregate care centers had been litigated and that LILCO had had a fair opportunity to make its position clear. In particular, the Board was convinced that LILCO was familiar with the planning requirement of NUREG-0654 Section J 12 that it must be "capable of monitoring within about a 12-hour period all residents and transients in the plume exposure EPZ arriving at relocation centers." (Emphasis added.) It was also clear from the subsequent cross-examination that LILCO intended to stand on its analysis showing that 32,000 persons was the appropriate number to use for planning both sheltering and monitoring requirements in spite of positing by Intervenors' counsel that the number of persons needing monitoring might be as large as 160,000. LILCO's testimony acknowledged however that the number needing monitoring might be larger than 32,000 in certain low probability situations although it rejected the possibility that the number could ever be as large as 160,000.

The evidentiary record in the proceeding was closed on August 29, 1984. At a Conference of Counsel on January 4, 1985, the Board again ruled that LILCO's failure to identify a reception center constituted a void in the record, and further that identifying the Coliseum as a reception center was not merely a confirmatory item. Pursuant to a January 11, 1985 motion by LILCO, the Board on January 15, 1985 reopened

the record for the limited purpose of determining whether the Coliseum was adequate to serve as a reception center.

At the time of reopening the record, the Board had reached no conclusion as to whether LILCO was correct in its prior analyses of the planning basis for monitoring. Neither had it concluded that Intervenors were correct in counsel's assertion that the planning basis should be as large as 160,000 persons.[7] We had simply concluded that the matter had been litigated, and that the parties positions were clear on the record. Intervenors proceeding by cross-examination was a perfectly acceptable way for it to make its case.

At no time prior to the reopened hearing, did we indicate that the evidence had been reviewed by the Board and that it was sufficient to sustain Applicant's position. We had not reviewed the record on an interim basis in order to critique a party as to whether it has sustained its burden.

The Applicant opposed revisiting the issue of monitoring in the reopened hearing as evidenced by its failure to raise the matter as part of its requested January 11, 1985 motion for reopening. Further evidence is contained in a filing with the Board titled "LILCO'S OPPOSITION TO INTERVENORS' MOTION FOR RECONSIDERATION OF BOARD'S

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7 We note that LILCO included a scenario in its emergency planning exercise of February 13, 1986 in which it assumed that 100,000 persons would be monitored. Post Exercise Assessments, April 17, 1986, Federal Emergency Management Agency, at 80.

FEBRUARY 5 ORDER DENYING DISCOVERY," (February 12, 1985), dealing with the denial of discovery in the reopened proceeding. Applicant stated that the seven documents submitted with its motion for reopening of January 11, 1985, filled the void in the record; that the planning basis surrounding the use of the Coliseum previously "has been thoroughly litigated"; and that issues "fully litigated" included "monitoring and decontamination." Id. at 3.

This was consistent with the Board's conclusion and the Board ordered "The number of general evacuees that can be expected to use a relocation center had already been litigated and that subject will not be reheard." Memorandum and Order (Reopening the Record) (May 6, 1985), at 4.

As matters stood at the time of the reopened hearing, the issue of the population planning basis was therefore not properly before us for that hearing which had a very narrow scope. The Board had no doubt at that time however that the planning basis included the issue of monitoring,
that it was properly before us in the overall relocation center litigation, and that it was a matter which could properly be decided based on the August 1984 record.

The Board withheld a decision on relocation center issues in its partial initial decision because the reopened hearing had not yet been held and the record was at least in some respects incomplete. In its Concluding Initial Decision, the Board ruled adversely to LILCO on the issue of population planning basis. The ruling found that the lack of

planning for the number of persons in need of monitoring was a defect in need of correction. There was no lack of fairness in this ruling because LILCO had already had the opportunity in the August hearing simply to supply a number with an underlying rationale for the number of persons who might arrive at a reception center in need of radiological monitoring but not of sheltering. This was a contingency it had acknowledged could happen.

Instead, LILCO's posture in filings before us was as a party confident that it had carried its burden of proof and who saw no need to alter its position that 32,000 persons was the correct planning basis.[8] It was not until the Board canvassed the record with the focus needed for decision that it concluded that LILCO's confidence was misplaced. This was because LILCO's planning basis for the number of persons needing shelter was traceable to experience and literature describing nonradiological disasters. Tr. 14821 (Weismantle). This left the question of radiological monitoring of the evacuees arriving at the reception center open and unanswered. The need for monitoring and the need for shelter arise from different reasons for evacuees and independent analysis is needed to formulate a planning basis for the total number needing service.

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8 See: LILCO'S REPLY FINDING ON REOPENED CONTENTION 24.0 (NASSAU COLISEUM) (July 26, 1985), at 8, where Applicant took the position that the number of evacuees expected to come to the Coliseum in the event of a Shoreham emergency was irrelevant to the reopened issue

(Footnote Continued)

The Appeal Board's determination in ALAB-832 that the reopened proceeding on the Coliseum should have been expanded to permit exploration of additional matters associated with the suitability of the Coliseum itself does not warrant at this juncture a different conclusion from that previously arrived at by the Board. The Appeal Board in ALAB-832 directed us to hear other issues raised by Intervenors as appropriate to the reopened proceeding. The issues to be litigated did not include establishing the number of evacuees that are to be monitored and processed in the event of a radiological emergency. We continue to view the matter of the number of evacuees to be monitored and processed in the event of a radiological emergency as having been litigated on August 21, 1984, a position subscribed to by Applicant, the appellant.

LILCO, on September 30, 1986, filed a motion to reopen the evidentiary record on Contention 24.0 for the purpose of replacing the Coliseum as a reception center with three LILCO facilities the Hicksville, Bellmore and Roslyn Operations Centers. Applicant mentions this remand in its motion but does not suggest that the matter which is the subject of its appeal be litigated.[9] Intervenors filed an answer vigorously opposing the motion to reopen. In it, Intervenors set forth the areas that should be litigated in the event the motion to reopen is

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(Footnote Continued)
because the potential number of evacuees had already been litigated. Also: Tr. 15969-76 (Robinson).

9 LILCO'S MOTION TO REOPEN RECORD (September 30, 1986), at 3.

granted. They do not mention as one of the matters for relitigation the number of evacuees that would seek monitoring and processing.[10] No party has come forward and requested that this area be litigated.[11]

Considering the foregoing, along with the fact that the issues on appeal as regards the monitoring of evacuees remain unresolved, it would be premature for us at this time to consider whether the changes in the facility itself bear on the question of the need to plan for evacuees who seek monitoring but not sheltering. Should the Appeal Board rule that the matter was not properly raised for litigation or that the Board imposed an obligation not justified by any NRC planning requirement or guidance the entire matter would be rendered moot. Otherwise, the Board would want to obtain the position of the parties for relitigating the issue of establishing the number of evacuees to be monitored, considering their past and current positions relating to the matter.

After analysis of the issue on remand, the Board adheres to its findings as stated in its Concluding Partial Initial Decision. We conclude that Contentions 24.0 and 75 taken together properly raised the issue of population planning basis for evacuees arriving at a reception center, that LILCO had a fair opportunity to litigate the matter and that when the smoke had cleared it had simply failed to carry its burden

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10 SUFFOLK COUNTY, STATE OF NEW YORK, AND TOWN OF SOUTHAMPTON OPPOSITION TO LILCO'S MOTION TO REOPEN RECORD (OCTOBER 14, 1986).

11 See also: NRC STAFF'S RESPONSE IN LILCO'S MOTION TO REOPEN RECORD (October 10, 1986).

of proof on that point. In reaching this conclusion, the Board never found it possible to adopt any parties' views as to what the correct number should be in the planning basis for radiological monitoring. This remains true to this day; there is simply no basis to decide it in the record.

## CONCLUSION

The Appeal Board has directed that we should "reconsider [our] decision regarding the monitoring of evacuees ... in accordance with this opinion." (ALAB-847, slip op. at 35.) We have done so, paying especially close attention to the questions set forth by the Appeal Board regarding the number of evacuees to be monitored. We treat them seriatim below.

First, the Appeal Board would have us consider whether the issue of the number of evacuees needing monitoring was properly before us at all. (ALAB-847, slip op. at 8-9.) We believe that it was. As we reasoned above, we agree with the Appeal Board's earlier analysis, viz., that "[a]lthough the relocation center contentions were cast in terms of the lack of an agreement evidencing permission for use of designated facilities as relocation centers, the Intervenors' essential concern was whether those facilities were adequate to fulfill their purpose ... this interest is manifest, for example, in Contention 24.0 .... The same thought is inherent in Contention 75, which asserts that the relocation centers designated by LILCO will be sufficient in capacity to provide

necessary services for the number of evacuees that will require them." (ALAB-832, 23 NRC 135, 162 n. 104.)

Second, the Appeal Board notes that "... the Licensing Board is best situated to decide one question hotly contested on appeal -- i.e., whether the Board intended as part of its reopening to revisit the issue of LILCO's plan for evacuees who did not seek sheltering." (ALAB-847, slip op. at 11.) As we clearly set forth above, we did not so intend. We agreed with Applicant and we regarded the issue as having already been litigated.

Third, the Appeal Board says "[t]he Board should determine whether [the] ... revisions in the number, locale and function of the individual reception center and the congregate care centers raised new or unique concerns regarding the number of evacuees who would seek monitoring but not sheltering." (ALAB-847, slip op. at 15.) We conclude that the prior changes did not raise new or original concerns on that issue. Under all circumstances, it is incumbent on Applicant to establish a planning basis for all evacuees to be monitored. The facilities have again changed however, and it would be premature for us to consider whether that change may bear upon the question of the number of evacuees seeking monitoring.

Fourth, the Appeal Board notes that "[i]t is possible, of course, that the Board declined to relitigate LILCO's planning basis because it had already adopted the Intervenors' assertion that any monitoring and decontamination facility must have the capability of processing all 160,000 people living in the EPZ." (ALAB-847, slip op. at 16-17.) As

we state clearly above, we have not accepted the figure of 160,000 suggested by Intervenors' counsel. We find no support for that figure in the record; indeed, we find no adequate support for any specific total figure whether it be 160,000 people, 32,000 people, or anything between or beyond those figures.

Based on our analysis on remand, the Board continues to believe that it was correct in its ruling that LILCO's plan should contain a planning basis for the number of evacuees arriving at a reception center to be monitored. This ruling was applicable of course to litigation surrounding the Coliseum which we are aware is no longer available to LILCO.

Because of that development, the Appeal Board notes that "[p]resumably the Board will need to reexamine the adequacy of any new facility selected by LILCO" and whether the change in the facility itself bears on the question of the need to plan for evacuees who seek monitoring but not sheltering. (ALAB-847, slip op. at 18.) We have presently before us LILCO's Motion to Reopen Record for the purpose of replacing the Coliseum with three other facilities. It is premature to make the reexamination at this time because the Appeal Board has not ruled as to whether the issue was properly raised for litigation or whether it is a regulatory requirement. A negative answer to either issue would render this matter moot. Further, Applicant's motion to reopen the record for substituting three other facilities for the Coliseum is vigorously opposed by the Intervenors. Neither side takes a position that the number of evacuees to be monitored is part of the

motion for reopening. Before stating any conclusion we would want to give the parties the opportunity to make known their positions as to whether the number of evacuees to be monitored should be considered for inclusion as part of any reopened record on the substitution of facilities.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD

Morton B. Margulies, Chairman
ADMINISTRATIVE LAW JUDGE

Jerry R. Kline
ADMINISTRATIVE JUDGE

Frederick J. Shon
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland
this 29th day of October, 1986