

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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Before the Chief Administrative Judge,  
Atomic Safety and Licensing Board Panel

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

|                                  |                          |
|----------------------------------|--------------------------|
| In the Matter of                 | )                        |
| LONG ISLAND LIGHTING COMPANY     | ) Docket No. 50-322-OL-5 |
|                                  | ) (EP Exercise)          |
| (Shoreham Nuclear Power Station, | ) Docket No. 50-322-OL-3 |
| Unit 1)                          | ) (Emergency Planning)   |
|                                  | )                        |

**LILCO'S OPPOSITION TO "MOTION FOR  
RESCISSION . . . AND FOR EXPEDITED CONSIDERATION"**

Intervenors' motion for rescission should be denied for the following reasons, which are elaborated upon in more detail in an attached letter of even date from Donald P. Irwin to B. Paul Cotter, Jr.:

1. The forum requested by the motion is not one recognized for formal adjudicatory functions by the Commission's regulations, and thus the motion is not, as such, properly filed.
2. The matter is one committed to agency discretion.
3. The action taken by the Notice of Reconstitution and now complained of was (a) to expand the membership of Boards treating emergency planning matters in two related dockets, and (b) to preserve continuity of membership on the Boards in the two dockets. Failure to expand the Board resources with jurisdiction over these issues would have substantially delayed their resolution with no offsetting benefit in the quality of decision-making, resulting in severe financial prejudice to LILCO and in prejudice to the public interest in reasonably prompt agency decision-making. Alteration of the

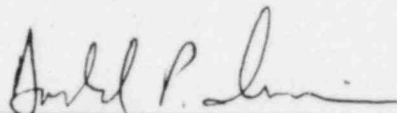
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panel hearing the still developing "-5" proceeding, rather than that of the more mature and complex "-3" proceeding, minimizes any dislocation inherent in remedying the otherwise unavoidable delay-prejudice problem. Retention of a common member on both Boards further develops continuity and minimizes overall prejudice.

5. No party has a vested interest in the composition of any Licensing Board. Intervenors have not shown any prejudice to their legally cognizable interests.

The motion should be denied.

Respectfully submitted,



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Donald P. Irwin  
Counsel for Long Island  
Lighting Company

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DATED: October 30, 1986

Attachment: Letter, Donald P. Irwin to B. Paul Cotter, Jr., October 30, 1986.