

TESTIMONY BY ROSEMARY S. POOLER  
COMMISSIONER, PUBLIC SERVICE COMMISSION  
ON THE SUBJECT OF  
SHOREHAM AND THE ECONOMIC FUTURE OF  
LONG ISLAND  
BEFORE THE  
ASSEMBLY ENERGY COMMITTEE

APRIL 29, 1983  
NASSAU CO, EXECUTIVE BLDG,  
MINEOLA, NEW YORK  
ANGELO F. ORAZIO, CHAIRMAN

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, THANK YOU FOR THE OPPORTUNITY TO PARTICIPATE IN THIS DISCUSSION ON SHOREHAM AND THE ECONOMIC FUTURE OF LONG ISLAND. YOU WROTE, MR. CHAIRMAN, IN YOUR LETTER CALLING THIS HEARING, ABOUT ALL THE CONFLICTING STATEMENTS AND LITTLE HARD DATA. THAT IS A VERY ACCURATE ASSESSMENT OF THE STATE OF THE ART TODAY, AND WHAT WE DESPERATELY NEED IS DATA THAT IS COLLECTED AND ANALYZED IN A FREE, FAIR AND UNBIASED FASHION. MR. CHAIRMAN, IN YOUR LETTER TO ME, YOU ALSO SAY IT WOULD BE HELPFUL IF TECHNICAL STAFF ACCOMPANY ME. LET ME IMMEDIATELY PUT IN MY PITCH FOR PUBLIC SERVICE COMMISSION REORGANIZATION. THERE IS NO STAFF THAT WORKS FOR ME. ALL STAFF WORKS, IN THE SENSE OF THE POWER TO HIRE AND FIRE, FOR THE CHAIR. WHILE I CAN GET ANSWERS FROM THE STAFF WHEN I HAVE SPECIFIC QUESTIONS, IF I DISAGREE WITH THE CHAIR, (WHICH IS OFTEN) STAFF IS THEN WORRIED ABOUT PROTECTING THEIR REARMOST PARTS AND THAT SURELY IS NOT THE WAY TO GET AT THE TRUTH. I WISH TO SHARE ONE EXAMPLE OF THESE PROBLEMS AT THE PUBLIC SERVICE COMMISSION AND THEN I WILL GET TO THE SUBJECT OF THIS HEARING.

I HAVE HERE A DOCUMENT PREPARED BY THE OFFICE OF ENGINEERING OF LILCO DATED APRIL, 1983 ENTITLED "SHOREHAM OPERATION VERSUS SHOREHAM ABANDONMENT (AN ECONOMIC ANALYSIS)," IT BEARS THE LEGEND, PRELIMINARY DRAFT FOR DISCUSSION PURPOSES. I GOT THIS REPORT FROM A STAFF MEMBER WHO WAS FRIGHTENED AS HE OR SHE SPOKE TO ME AND COULD ONLY LET ME HAVE IT FOR ONE HOUR TO COPY IT. I DID NOT GET THIS DOCUMENT AS A COMMISSIONER OF THE PUBLIC SERVICE COMMISSION,

I GOT IT FROM A WHISTLE BLOWER AND COMMISSIONER MEAD, WHO COMES FROM LONG ISLAND, AND WHO ADVOCATES ACTIVELY ON BEHALF OF LONG ISLAND, DID NOT GET THE DOCUMENT EITHER. THERE MUST BE OTHER REPORTS CIRCULATING IN THE COMMISSION THAT I HAVE NOT SEEN AND DO NOT KNOW ABOUT. I AM SURE, FOR EXAMPLE, THAT THE STAFF OF THE PUBLIC SERVICE COMMISSION IS PREPARING, OR HAS PREPARED SIMILAR STUDIES. I HAVE SEEN NONE OF THEM.

TO THE TOPIC AT HAND. I AM HERE AS A COMMISSIONER OF THE PUBLIC SERVICE COMMISSION, BUT DO NOT SPEAK FOR THE COMMISSION. THERE WILL BE SOME QUESTIONS, MR. CHAIRMAN, THAT I CANNOT ANSWER FULLY, OR PERHAPS AT ALL, IF THOSE QUESTIONS WILL BE SUBJECTS OF PROCEEDINGS BEFORE OUR COMMISSION.

NO ONE CAN KNOW THE FUTURE, THEREFORE PROJECTIONS AND PREDICTIONS ARE ALWAYS PERILOUS. BUT PROJECTIONS BASED ON THE BEST AND MOST UP-TO-DATE INFORMATION TEND TO BE BETTER. WHILE WE DO NOT WANT TO MAKE HINDSIGHT A REGULATORY PRINCIPLE, IT IS FAIR TO SAY, I THINK, THAT SHOREHAM SIMPLY COULD NOT BE APPROVED TODAY, BOTH FOR ITS DESIGN AND LOCATION. JOSEPH SWIDLER, THE LEGENDARY FORMER CHAIRMAN OF THE NEW YORK PUBLIC SERVICE COMMISSION, WHO WAS HEADING THE AGENCY WHEN SHOREHAM WAS APPROVED SAID, "WE WERE UNDER THE IMPRESSION THE NUCLEAR INDUSTRY WAS MORE MATURE... THAN HAS PROVED TO BE THE CASE."

I CANNOT SPEAK ON WHETHER OR NOT SHOREHAM SHOULD OR SHOULD NOT OR WILL OR WILL NOT BE ALLOWED TO OPEN, BUT I WILL TAKE THIS COMMITTEE'S QUESTIONS AND DEAL WITH THEM AS THEY ARE PREMISED.

- 1) TOTAL COSTS OF FAILURE TO OPEN SHOREHAM AS COMPARED TO COSTS ASSOCIATED WITH ALLOWING THE PLANT TO OPERATE.

WE SIMPLY DO NOT KNOW THESE ANSWERS. LILCO, IN THE DOCUMENT I REFERRED TO IS, OF COURSE, PREDICTING AN ECONOMIC ARMAGEDDON. THEIR TOP FIGURE, WITH RIPPLE EFFECT IS 90 BILLION DOLLARS. THAT IS AN INCREDIBLE AND UNBELIEVABLE FIGURE. MUCH DEPENDS ON HOW THE PUBLIC SERVICE COMMISSION TREATS THE ABANDONMENT, AND IF THE PLANT OPENS, HOW THE PUBLIC SERVICE COMMISSION DEALS WITH THE PHASE-IN TO RATE BASE ISSUE. MUCH DEPENDS ON THE PRICE OF OIL AND HOW WELL THIS PLANT, PLAGUED BY CONSTRUCTION DIFFICULTIES, ULTIMATELY OPERATES. LET ME MAKE THIS LAST EQUATION CLEAR - IF THE PRICE OF OIL GOES LOWER, AND THIS PLANT TURNS OUT TO HAVE A LOW CAPACITY FACTOR (SOME PLANTS JUST DO NOT OPERATE PROPERLY) THEN THE BENEFITS OF A RUNNING SHOREHAM ARE PUSHED FURTHER AND FURTHER INTO THE FUTURE.

- 2) WHEN WOULD LILCO NEED ADDITIONAL GENERATING CAPACITY IF THE PLANT IS NOT OPENED?

THIS IS ONE OF THE UNKNOWABLES. IT IS MY GENERAL UNDERSTANDING THAT THE COMPANY IS SAYING THEY WILL HAVE TO ADD GENERATING CAPACITY IN 1994. IF, HOWEVER, SHOREHAM WAS NOT OPENED, THE COMPANY SHOULD

PRUDENTLY LOOK TO ALTERNATIVES TO BUILDING CAPACITY AS A MEANS OF SUPPLYING ENERGY TO ITS CUSTOMERS. THESE ALTERNATIVES INCLUDE IMPROVING THE COMPANY'S LOAD FACTOR, GETTING BETTER USE OUT OF PLANT ALREADY IN SERVICE; AGGRESSIVELY PROMOTING CONSERVATION; OR BUYING POWER FROM A COMPANY WITH A SURPLUS - I.E. BUILDING TRANSMISSION LINES INSTEAD OF A GENERATING PLANT.

MY ANSWER TO THE "WHEN NEEDED" QUESTION IS - THE BEST THING TO DO IS GET A LEGITIMATE DATE AND TRY TO GET GOOD MANAGEMENT TO PUSH THAT DATE INTO THE FUTURE.

3&4) LEGAL BARRIERS TO REQUIRING COSTS ASSOCIATED WITH SHOREHAM FROM BEING ASSIGNED TO SHAREHOLDERS AND WHAT HAVE OTHER STATES DONE?

FIRST, NO OTHER JURISDICTION HAS DEALT WITH AN ABANDONMENT OF THE ORDER OF MAGNITUDE OF SHOREHAM. AS PRECEDENT ON ABANDONMENT STANDS, NEW YORK HAS TAKEN A POSITION OF ABSOLUTE PROTECTIONISM TOWARD SHAREHOLDERS AND HAS EXPLICITLY REJECTED THE NOTION OF SHARING OF RISKS BETWEEN SHAREHOLDERS AND RATEPAYERS. NEW YORK HAS TAKEN WHAT IS TURNING INTO A MINORITY POSITION THAT MAY BE FAIRLY CHARACTERIZED AS ANTI-CONSUMER. THE CASE WHICH ENUNCIATED THESE PRINCIPLES WAS ONE IN WHICH I COULD NOT PARTICIPATE BECAUSE OF MY EARLIER WORK AT THE CONSUMER PROTECTION BOARD. CASE 27794 HAS A WONDERFUL, RIGHT THINKING DISSENT BY COMMISSIONER MEAD AND CHAIRMAN GIOIA, AND COMMISSIONERS, LARKIN, MARR, JERRY AND SCHULER AGREEING TO GIVE THE COMPANIES ORIGINALLY INVOLVED IN THE STERLING PROJECT EVERY LAST DOLLAR THEY ASKED FOR. MANY STATES, AS THEY

HAVE HAD TO DEAL WITH CANCELLATIONS AND ABANDONMENTS HAVE FOUND WAYS TO SHARE THE PAIN. NEW YORK, UNFORTUNATELY, DID NOT.

5) LIKELY SCENARIO REGARDING ASSIGNMENT OF COSTS?

THE STERLING PRECEDENT WOULD HAVE TO BE REPUDIATED TO ALLOW ANY SHARING OF COSTS.

6) IMPACT ON RATEPAYERS?

IF STERLING IS HELD AS THE STANDARD, RATEPAYERS WOULD PAY FOR EVERY EXPENDITURE FOUND TO BE PRUDENT.

7) IMPACT ON THE ECONOMY?

WHO CAN PREDICT? THE IMPACT ON THE ECONOMY OF LONG ISLAND UNDER THE ALTERNATIVE SCENARIO'S OF OPERATION AND ABANDONMENT NEEDS TO BE MORE THOROUGHLY AND FAIRLY STUDIED.

8) CONSEQUENCES OF FAILING TO OPEN SHOREHAM ON THE FINANCIAL STABILITY OF LILCO.

OF COURSE, A GREAT DEAL WOULD DEPEND ON HOW THE PUBLIC SERVICE COMMISSION TREATED THE COST, HOW MUCH THE COMPANY COULD RECOVER AND HOW SOON. THIS ALSO NEEDS INDEPENDENT EXAMINATION.

9) IMPACT OF A BANKRUPTCY OF LILCO ON LONG ISLAND.

WHO KNOWS. WE HAVE NOT, IN MODERN TIMES, HAD A BANKRUPTCY OF A UTILITY. NEITHER HAVE WE HAD A PROJECT, I THINK, AS MISMANAGED

AS SHOREHAM. I THINK REORGANIZATION OR RECEIVORSHIP IS A BETTER TERM THAN BANKRUPTCY BECAUSE THE LIGHTS WILL CONTINUE TO TURN ON AND HEATING AND COOLING WILL CONTINUE. THE RECEIVORS WOULD DEMAND, I THINK, DIFFERENT MANAGEMENT, AND BEYOND THAT I SIMPLY CANNOT SAY.

10) WOULD THE STATE OR OTHER GOVERNMENT ENTITY BE REQUIRED TO ACT TO PREVENT A LILCO BANKRUPTCY?

THE STATE WOULD ACT, TO ASSURE THAT CUSTOMERS OF LILCO CONTINUE TO RECEIVE SAFE, DEPENDABLE AND ADEQUATE SERVICE AT REASONABLE PRICES. THAT, AT LEAST, IS THE DUTY OF THE PUBLIC SERVICE COMMISSION.

11) ABANDONING SHOREHAM AND LILCO'S ABILITY TO FINANCE ITS SHARE OF NINE MILE POINT II.

IF LILCO RECOVERED ABANDONMENT RELATED COSTS QUICKLY, IT COULD CONTINUE, I THINK, TO PARTICIPATE IN NINE MILE POINT II. WHETHER THIS IS A GOOD IDEA FOR LONG ISLAND RATEPAYERS IS QUITE ANOTHER QUESTION. NINE MILE POINT II, BEFORE ITS SORRY STORY IS OVER, MAY MAKE SHOREHAM LOOK GOOD. NINE MILE POINT II, AT PRESENT ESTIMATES, WILL HAVE THE HIGHEST INSTALLED KILOWATT COST OF ANY PLANT BUILT ANYWHERE IN THE WORLD.

12) SHOULD LILCO DIVEST ITS INTEREST IN NINE MILE POINT II?

I SIMPLY CANNOT STATE WHETHER LILCO COULD BE REQUIRED TO DIVEST ITS INTEREST IN NINE MILE POINT II. IF NINE MILE POINT II WERE TO

CONTINUE LURCHING TO COMPLETION, IT SEEMS UNFAIR TO LET LILCO OUT OF THIS PROJECT. IN THE PUBLIC SERVICE COMMISSION'S PROCEEDING ON WHETHER NINE MILE POINT II SHOULD CONTINUE AT ALL, LILCO WAS REPRESENTED BY COUNSEL AND TOOK THE POSITION THAT THIS WAS A GOOD PROJECT THAT THE CO-TENANTS SHOULD BE ALLOWED TO COMPLETE.

IF, HOWEVER, LILCO WAS PREPARED TO ARGUE EXTRAORDINARILY CHANGED CIRCUMSTANCES, AS A REASON TO DIVEST ITSELF, THE COMMISSION WOULD HAVE TO CONSIDER THAT ARGUMENT IN AN APPROPRIATE PROCEEDING.

WHAT NEEDS TO BE DONE NOW IS THE CREATION OF SOME FORUM OR BODY OR PANEL THAT WILL ACT TO SORT OUT THE SUBSTANTIATED FROM THE UNSUBSTANTIATED CLAIMS. I LIKE GOVERNOR CUOMO'S IDEA OF INCLUDING THE FEDERAL GOVERNMENT. YOU ARE, INDEED RIGHT, MR. CHAIRMAN, THAT WE NEED SOLID INFORMATION. I THINK THIS HEARING TODAY HAS BEEN A VERY SALUTORY BEGINNING TO THIS PROCESS.

THANK YOU.