WILLMOTTS & WHY NOTS

DAVID J. WILLMOTT SR., EDITOR

Refund's Rightful Recipients

Negotiations are currently underway for the possible full or partial takeover of all of the Long Island Lighting Company's facilities throughout Long Island.

A key element of these talks is a resolution to the financial crisis which faces Brookhaven Town, Suffolk County and the Shoreham-Wading River School District because of a recent Supreme Court decision in a tax certiorari case involving assessments of the Shoreham Nuclear Power Plant.

The threat of that award puts LILCO in strong bargaining position and the possibility that Long Island Power Authority negotiators, pressured to resolve the certiorari crisis, could give away the store in reaching a reasonable settlement.

That's exactly what happened when former Governor Mario Cuomo initiated discussions with LILCO over the closing of the Shoreham plant, the subject of strong opposition in Suffolk County because of safety issues. The resulting outcome of those discussions, labeled by Wall Street observers as a "Sweetheart Deal," enriched LILCO to the tune of $4 billion and burdened ratepayers with the highest electricity rates in the nation.

Supreme Court Judge Thomas Stark, who awarded the Long Island Lighting Company more than $1 billion, including interest, responded in a letter dated December 17, 1996, to a Suffolk Life editorial which declared the tax refund belongs to the people who paid it, the ratepayers, not to LILCO.

Judge Stark enclosed a copy of a letter, dated April 12, 1990, from LILCO Chairman William J. Catacosinos to then Public Service Commission Chairman Peter Bradford. Catacosinos said that while the PSC had allowed utilities to retain a portion of the refunds to encourage them to bring tax certiorari proceedings, LILCO intended "to depart from the Commission's past practice in this suit by returning all of the proceeds to our customers after litigation costs. We will use funds to reduce our electric rates."

Catacosinos added: "We're particularly disturbed that our tax bill to state and local governments now exceeds 20 percent of our revenue, which means that 20 cents out of every dollar our customers pay to us we turn over to state and local governments. In effect, we have become a tax collector for these governments..."

What Judge Stark did not say in his letter to Suffolk Life was when and how the ratepayers will receive their refund. When and how, and by how much, will the rate reduction promised by Catacosinos, take place? Who will audit the distribution of these funds? Who will audit and confirm the legal billings that LILCO intends to deduct from the total refund?

Who has audited the distribution of the initial $70 million, plus interest, that Judge Stark awarded LILCO in the Phase I tax certiorari case? Or in other tax certiorari cases won by LILCO? Where has that money gone? It is our fear that LIPA negotiators, in their zeal to resolve this financial crisis that the Stark decision has placed over the future of Brookhaven Town, Suffolk County and the Shoreham-Wading River School District, will accept a settlement that is not in the best interest of the ratepayers, which is exactly what happened with the Cuomo deal to close LILCO's Shoreham nuclear plant.

Any deal struck by LIPA in the certiorari matter, which would have to be supported by state bonds, should not go to LILCO directly.

All proceeds from this certiorari suit should be placed in a dedicated refund account. That account should be managed by a special financial board that will decide how the money should be refunded to ratepayers.

Legal bills submitted by LILCO for reimbursement out of the Stark award should be carefully audited to determine their accuracy.

LILCO concedes that it is a tax collector through which the funds paid by the ratepayers flow to local governments. LILCO should have no say in how these refunds are to be returned to the ratepayers. It may well be that the financial impact of the state bonding and the interest costs required to pay off this certiorari case would be more costly than the refunds would yield for the ratepayers. Why should ratepayers have to pay bonding costs to have the state pay for the Stark refund award which rightfully belongs to the ratepayers?

Who will audit the distribution of these funds...audit and confirm the legal billings that LILCO intends to deduct from the total refund?

The prospect that LILCO would be in a position to dole these refund dollars back to the ratepayers in the form of "rate reductions" is unacceptable. Considering the lack of auditing on certiorari funds being refunded to ratepayers in the past, we have no trust in the promise that all the dollars will be returned to the rightful recipients, the ratepayers.

Any assumption by the state concerning this certiorari award must include protection for the ratepayers. Promises don't cut it. If LIPA negotiators don't protect the ratepayers, a class action suit on behalf of the ratepayers for the return of their refund dollars may be the only other course of action.

The Shoreham fiasco has cost ratepayers millions upon millions upon millions of dollars already. They paid for the Shoreham plant in Construction Work in Progress funds and Financial Stability Adjustments granted by the state Public Service Commission during the construction of the ill-advised plant, and paid another $4 billion, plus increased rates, in the Cuomo deal to restore the utility to financial health—a fiscal status ravaged by LILCO's blind insistence on putting the Shoreham plant on-line.

The impact of the Shoreham folly has seriously injured the economic health of our area. It has driven businesses and jobs off Long Island and out of the state because of the high utility rates. It is time to put an end to this insanity. It is time for the ratepayers, not LILCO, to call the shots, and it is time for those currently negotiating, on behalf of the ratepayers, to do what is right.

Enough is enough!

And why not?

Classroom Etiquette

Most everyone will agree that negotiating a teachers' contract does not belong in the classroom because it directly impacts the students, yet school districts throughout Suffolk County have been confronted by these unions protesting during school hours in one way or another.

When teachers wear colored shirts, armbands, stickers or buttons to class for the purpose of showing solidarity during contract negotiations, the students are compromised. They are there to be educated, not used as a political football.

When negotiations hit a snag in the past, the union leaders often demanded that the teachers not take extracurricular responsibilities, to demonstrate what could happen if an agreement was not reached.

Failing that, the teachers can do what their colleagues apparently have done in Bellport: 23 high school teachers called in sick on Wednesday, February 5.

It is extremely difficult to believe that 23 high school teachers could come down with a 24-hour virus serious enough to keep them out of school all on the same day. This is a pure and simple job action and the district superintendent and school board should be commended for calling it such.

Like anyone else, teachers have a right to be concerned about their future. Tempers are expected to flare when the district and the union representatives can find little common ground in contract negotiations, especially when the district is going on three years since its last contract agreement, as is the problem in Bellport.

To be fair, Bellport's teachers have reason to complain, especially since they sent their union negotiators back to the table to inform the district that they would accept a salary increase of 1.5% for 1994-95, 2% for 1995-96, and 3% for 1996-97, as recommended by a state fact-finding report.

The district claims, however, that after paying the teachers $440,000 in longevity step increases, it cannot afford any additionally salary increases.

Teachers and administrators in the public school system are paid respectable salaries and they are given very good benefits. No one is saying that those teachers or administrators are not worth the money. The bottom line is whether the district taxpayers can pay for constant increases to those salaries and benefits.

The negotiation of any district contract is expected to be done by adults who are supposed to take into consideration how the taxpayers, the consumers, will be impacted by any agreement.

Including the students in that process, either directly or indirectly, is a violation of ethical and moral judgment.

The argument has been made that it simply involves them in the democratic process, but these students are predominately underaged and do not understand that the Constitutional right of the teachers' union to protest has been restricted by the Taylor Law because it guarantees teachers their job and salary while a contract is being negotiated.

Adults should act like grownups and let the kids be kids.

And why not?

WILLMOTTS & WHY NOTS

DAVID J. WILLMOTT SR., EDITOR

Will Real Estate Taxes Increase Over 50%?

The County Executive's office recently negotiated a contract with the Association of Municipal Employees (AME), the county's largest employee union, with 6,600 members.

In fairness to the union and to the county workers, we invited the union to publish an op ed piece in *Suffolk Life* to give them an opportunity to speak to the public about the contract and why they feel it is in everyone's best interest.

We also invited Joseph Rizzo, presiding officer of the legislature, to present an opposing viewpoint.

Rizzo's office declined this invitation as they said that they had just received the legislature's Budget Review Office (BRO) report and it had to be analyzed.

According to the BRO report, there is no money available to fund the contract's first two years (1996 and 1997).

Although the county executive agreed to this contract, he does not have the money to pay for it. The ensuing years covering the contract, according to BRO Director Fred Pollert's report, will require $36 million in additional funds.

The legislature must find the political courage to be fiscally responsible and prudent.

In 1996, Suffolk County raised $51.4 million from real estate taxes. The cost of agreeing to the AME contract could create a situation where the county portion of our real estate taxes will have to be raised over 50% to fund the workers' raises.

The contract gives the county employees two raises. The first is a flat, outright salary increase of approximately 2.5% per year. The second raise is automatic step increases of 3% per year on top of the 2.5% a year salary increase. This will give AME members a 5.3 percent to 7.6 percent increase each year (depending on what step one is on). Cumulatively, these county employees will be receiving a 33% raise over the five-year life of the contract.

The automatic step increases are the most onerous provisions in the contract as they grant the employees a continuation of these raises even after the contract has expired. The contract will be governed by the Triborough Provisions, which keep all step increases and negotiated benefits in existence while contracts are being negotiated.

This allows the union, in future negotiations, to keep any changes in the benefit provisions off the negotiating table. It ties the hands of management. The union has no impetus to settle, as the members continue to receive raises and all benefits.

In past contract negotiations with the AME, the county eliminated these provisions because the union wanted higher salary increases.

This is an extremely dangerous and expensive contract for the taxpayers. The county would be far better off granting raises, but eliminating step increases. What can the taxpayers afford? Can the residents of Suffolk afford to have the county portion of their real estate taxes increase over 50%? This is the question that every legislator who is being asked to ratify this contract must ask.

Taxpayers in the five West End towns, who are covered by the Suffolk County Police Department, will have to fund the cost of the binding arbitration award and the new county police contract. In addition, the county is still in negotiations with the Suffolk Police Superior Officers Association and four other unions. It is expected that the SOA will receive similar increases as the PBA and the total cost will be about $11 million a year.

Also, Suffolk's government will be asked to pick up the $8 million cost of returning the $100 that was illegally charged against residents who paid their taxes late, $83 million a year to pay off the $1.1 billion certiorari award for Shoreham and another $17.7 million a year to cover the pending $80 million AME arbitration over step increases for 1991 to 1995.

Complicating matters more, Albany is expected to cut state aid to Suffolk by $28 million this coming year; when everything is factored in, the county government is in deep financial straits. The county may not only have to cut the size of government, but substantially increase taxes just to keep its head above water.

The legislature must find the political courage to be fiscally responsible and prudent. The taxpayers have little left to give. They have reached the end of their rope.

We don't need a repeat of the Cohalan fiasco that came close to bankrupting Suffolk County. Our economy is still reeling. We are far from recovery. If wage concessions are needed, they must be kept to the rate of inflation and under no circumstances should future government hands be tied to automatic step increases or the Triborough Provisions.

Whatever is done must be good for the employees and good for the public, which pays the taxes.

And why not?

We've Already Paid For Shoreham

Why is the Shoreham debt still being carried on the books, suffocating Long Island's ratepayers?

During the eighties, Long Island ratepayers prepaid for almost all of Shoreham's prudent costs through Construction Work In Progress (CWIP) payments and Financial Stability Adjustment (FSA) payments.

LILCO was granted these rates, which amounted to $2.5 billion in CWIP funds, between 1981 and 1987. The company was also given $170.5 million in FSA funds during 1984 and 1985, and $322.2 million in 1986 and 1987. The total FSA payments amounted to $3.5 billion.

The total cost of Shoreham was about $4.5 billion. Out of this $4.5 billion, LILCO was charged with imprudently spending almost $1.8 billion. When this is combined with the FSA payments and the CWIP funds, ratepayers should have received a refund. We have already paid 100% for the plant. Why are we still being charged for it?

Under the Cuomo-Catacosinos Shoreham bailout, the fact that we paid for the plant was ignored. To save LILCO from bankruptcy, Cuomo agreed to pay, again, for the plant. He allowed all the costs of Shoreham to be recalculated and because of the decree he signed, we were forced to pay for this ill-conceived construction project a second time.

Then, adding insult to injury, Cuomo agreed that the ratepayers should have paid LILCO the profits that they would have made had the Shoreham plant opened. He did not take into consideration that for the plant to be economically viable, the world market for oil would have had to exceed $52 per barrel. This was the break-even point for LILCO. Today, oil is selling for $22 per barrel.

The electric rate increases over the last eight years have more than paid again for Shoreham. How many times are we going to be asked to pay for this ill-fated venture? It was LILCO's venture, not the public's or the ratepayers'. It was the stockholders' gamble, not ours. It's time for them to pay for their mistake.

Governor Pataki appears to be headed toward another sweetheart deal for LILCO that will have us starting at level one again to pay for Shoreham for a fourth time.

How many times are we going to be responsible for paying for this valueless asset? Don't New York State or the United States have a justice system? It has already been proven in federal court that LILCO lied and cheated when they lost the RICO suit. Are there no laws in this country that protect the citizens?

Under New York State and federal law, a utility cannot work a capital improvement project into the rate base until it becomes "used and usable." Shoreham never met this test.

The Public Service Commission ignored this fact of law. At one point, the Attorney General's office was about to become involved and bring suit. Without explanation, the attorneys assigned to this project were called off and this point of law was never adjudicated.

If New York State law had been followed, the plant would have been worthless and would not have been worked into the rate base. It would not be considered a stranded asset. Why wasn't the law upheld? Who did LILCO get to?

New Hampshire recently announced they would no longer allow their utility to work stranded assets into the rate base. These losses must be borne by the stockholders. The public should not be made to absorb the cost of mismanagement. If New Hampshire can do it, why can't New York? This entire Shoreham fiasco flies in the face of reality, common sense and justice

Before Pataki inks any deal with LILCO, he must go back and look where the CWIP funds and the FSA payments went. They were supposed to be applied to the Shoreham project, not dividends to the stockholders. Until the public has some answers to these questions, there should be no deal on LILCO.

And why not?

WILLMOTTS & WHY NOTS

DAVID J. WILLMOTT SR., EDITOR

The Good, Bad, & Ugly: The Deal

The Long Island Power Authority's takeover of LILCO was announced this past week. It can best be described as the good, the bad and the ugly.

Ratepayers on Long Island pay 50% more for electricity than the average consumer in the nation. Businesses heavily dependent upon electricity can't compete and are moving. Homeowners have a huge portion of their income eaten up directly by their own electrical rates and also, a higher food cost. Food in this region is higher because the stores are paying higher utility rates and are passing these costs onto the consumer. A 16% to 20% rate reduction is good and welcome, but it still leaves us hobbled when it comes to being competitive.

The bad is, we will still be paying 30% more and the ugly is, after the deal is done, there is no further hope that the authority can allow competition.

The good news on the certiorari suit is that it will be reduced from $1.2 billion to $625,000,000. The bad news is, we will end up paying the cost of the settlement for 30 years. The good news is, the ratepayers will receive a cash rebate of $100 to $232. The bad news is, the rebate does not appear to be fair as it does not reflect what each of us paid and is averaged instead.

The ugly is, there is a lack of detail on what this rebate constitutes. Does it cover all the advance payments we made in CWIP funds, the financial stability payments, imprudency charges, RICO penalties, the phantom federal tax that LILCO charged us and then kept for itself and is paying the ratepayers back over 30 years? The certiorari suits that represented excess real estate taxes paid by the ratepayers should go back directly to the ratepayers in full.

The good is, Governor Pataki lived up to his word and has worked tirelessly to put together this deal. The bad is, like his predecessor, his negotiators were outgunned and outmaneuvered and didn't get the best deal for the consumers.

The ugly is, LILCO, which got us into this predicament, comes out whole and profits from its investment mistakes.

It is good that the ratepayers, through the Long Island Power Authority, will take over the transmission and distribution segments of LILCO.

The bad is, LILCO will continue to operate this system and can build in whatever costs it considers prudent. We are stuck, and by contract, will not be able to look for better operators for years to come.

The ugly is, the governor or the Long Island Power Authority did not thoroughly investigate the cost of replicating LILCO's transmission and distribution system. If they had, they may have found that they could have created a brand new system for a lot less money than they are paying for the utility's old system.

The good is, LILCO workers will continue with their jobs. The bad is, they will continue to work for LILCO, which will manage the distribution system.

The good is, LILCO will keep its power plants. The bad is, the Long Island Power Authority will be bound by a contract to buy whatever power LILCO generates at whatever cost the company determines. The ugly is, ratepayers will be blocked from obtaining cheaper power that is offered by competitors, now and into the foreseeable future.

The good is, tax free bonds will be floated to buy LILCO's interest. Tax free bonds carry a lower interest rate, which will translate into savings. The bad news is, we will buy LILCO's Shoreham debt, which means that we will pay for Shoreham for the fourth time. These bonds will have a life of 30 years and will artificially keep our electrical rates substantially higher than the rest of the nation.

The ugly is, the ratepayers' investment through Construction Work In Progress (CWIP) funds, Financial Stability Payments and revenues from rate hikes attributed to Shoreham do not appear to be factored into the deal.

The good is, the stockholders of LILCO will not receive dividends. Electricity sold by the Long Island Power Authority will not be marked up for profit.

The bad is, what was profit under the old deal will now be guaranteed interest to the bond-holders. The ugly is, we will continue to pay financial incentives to the investors, the name has just been changed.

We fear the very ugly part of the deal is in the details and like in the Shoreham, or the Cuomo-Catacosinos deal, those in power will do everything within their power to keep these details out of the public's hands.

The ugliness is, the deal rewards incompetence and the wasting of our money without making those who gambled by investing in LILCO accept the responsibility for their ill-fated investment.

The ugliness is, we are locked in for another 30 years without any hope of a reprieve. An authority is not responsible to the public. Once appointed, the directors are free from influence and control.

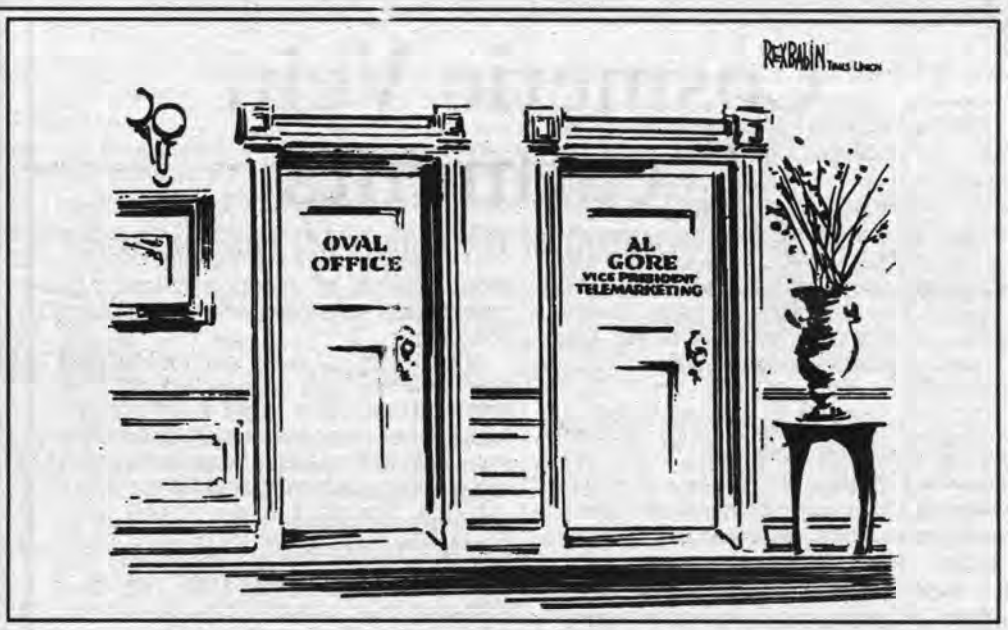
We assisted in creating the Long Island Power Authority. In fact, LIPA was born right here in the offices of *Suffolk Life*. From the beginning, we insisted that the directors be elected. This was the way the original legislation was written.

Governor Cuomo had the legislation changed, giving him the power to appoint. Governor Pataki took it a step further and had the election of officers totally removed from the law.

We will be watching carefully and will faithfully report. Until we see the details, and do the work necessary to understand them, we will be suspicious.

We have been burned before and are in no hurry to sign on. The devil is always in the details.

And why not?



What Is Good For The Goose...

Last week, the Suffolk County Legislature put the county Association of Municipal Employees (AME) contract on hold. The legislature has postponed its decision for a month until it finds out the outcome of the arbitration over its refusal to grant step increases to those county workers between 1992 and 1995.

According to a report by the legislature's Budget Review Office (BRO), if the county loses this case, it will face a cumulative deficit totaling $252.6 million. The county legislature did the right thing.

Unfortunately, County Executive Robert Gaffney and Presiding Officer Joseph Rizzo authorized increases for exempt employees, members of the legislative staff and the county executive's office.

They increased the steps of this elite group, giving them an average increase of almost 8%. This was done without the consent of the legislature, a back-door move to reward those within the inner circle.

This has sent the wrong message to the rank and file workers throughout the county. Why should they be made to wait and maybe not even get a contract, while those on the inside are receiving raises, especially raises far in excess of inflation?

This move was absolutely wrong.

The timing is purely stupid. Gaffney and Rizzo should hang their heads in shame.

And why not?

Losing Credibility Fast

Brookhaven National Lab has fallen into the same trap that LILCO did in its Shoreham fiasco.

Most people, at one time, looked at LILCO as apple pie and motherhood. We did not want to believe that our friendly utility would hurt us physically or financially. Most gave LILCO the benefit of the doubt and now we have the ghost of Shoreham.

Most people have wanted to trust Brookhaven National Lab. They are a good employer, doing medical research. They are scientists, tied to taking precautions.

Stories and reports have floated out for years that all may not be well with the lab. BNL officials branded all these reports as rumors, and most people had a tendency to side with them.

But each day, over the past few months, new revelations emerge concerning the tritium leak that has polluted the groundwater throughout the BNL property—a plume reaching more than 5,000 feet from the reactor site.

The lab, after denying that it had any awareness of a problem until this past December, now admits that it knew there was a problem dating back to the mid-eighties. That was when BNL was forced to close one of its own drinking water wells because tests showed it contained radioactive materials and was no longer safe to use.

The lab also claimed that the contaminated area had a plume that extended less than two hundred feet from the containment area. Officials at BNL now admit the plume is nearly a half-mile long and extends almost to the boundaries of the lab's property.

The lab has been far from truthful. Hiding the truth can be a danger to the public's health. The lab has already been designated a Superfund site, and it is the federal government's responsibility to clean up the mess that this federally-funded installation has created.

It is encouraging to see Senator Alphonse D'Amato and Congressman Michael Forbes take a strong interest in this issue. It's going to be up to these two men to get the federal government to live up to its responsibility, and quickly. We have no time to waste.

And why not?