

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	Docket No. 50-440-CIVP
FIRSTENERGY NUCLEAR OPERATING)	ASLBP No. 01-784-01-CivP
COMPANY)	
)	
(Perry Nuclear Power Plant, Unit 1;)	EA 99-012
Operating License No. NPF-58))	

JOINT MOTION TO APPROVE SETTLEMENT
AGREEMENT AND TERMINATE PROCEEDING

Pursuant to 10 C.F.R § 2.203, FirstEnergy Nuclear Operating Company (FENOC) and the staff of the Nuclear Regulatory Commission (NRC) respectfully submit this joint motion requesting the Board to approve the attached Settlement Agreement, dated May 22, 2001, and to terminate the above-captioned proceeding.

DISCUSSION

On August 3, 2000, the NRC issued an "Order Imposing Civil Monetary Penalty" (Order) in Enforcement Action 99-012 (EA 99-012) with respect to an alleged violation by FENOC. See 65 Fed. Reg. 68163 (November 14, 2000). The Order imposed a civil monetary penalty in the amount of \$110,000 based upon a Severity Level II violation.

On October 18, 2000, FENOC requested an enforcement hearing in response to the Order. See "Request for an Enforcement Hearing" dated October 18, 2000. In a Notice of Hearing issued November 7, 2000, the Licensing Board granted the request of FENOC for a hearing and also granted the Joint Motion of FENOC and the NRC Staff to suspend proceedings to afford said parties an opportunity to pursue settlement negotiations. By Memorandum and Order dated November 7, 2000, the Licensing Board also granted a joint request of said parties to further suspend proceedings to January 19, 2001.

An initial settlement conference between the parties was held on December 19, 2000. At that time, substantial progress was made in reaching an oral agreement in principle for a full settlement of this matter. On February 7, 2001, the parties requested additional time for settlement discussions. By Order dated February 8, 2001, the Licensing Board extended the suspension of proceedings, for settlement discussions, until March 8, 2001.

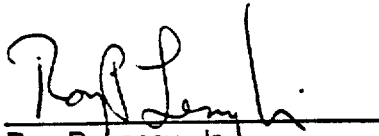
In a Joint Status Report filed March 8, 2001, the parties reported that while good progress had been made in the negotiation of a formal written settlement agreement, the parties believed that the process would benefit from the appointment of a separate settlement judge, consistent with Rockwell International Corp. (Rocketdyne Division), CLI-90-5, 31 NRC 337, 340 (1990). The parties also requested an extension of the suspension period. By Memorandum and Order dated March 16, 2001, the Licensing Board extended the suspension period until May 4, 2001, and recommended that the Chief Administrative Judge appoint a settlement judge.

By Memorandum and Order dated March 16, 2001, the Chief Administrative Judge appointed Judge Alan S. Rosenthal to serve as settlement judge. Judge Rosenthal held formal mediation sessions with counsel on March 21, 2001, and with the parties and counsel on May 8, 2001. At the joint request of the parties, the Licensing Board has extended the suspension period until June 19, 2001.

As a result of the above, the parties to the above-captioned proceeding, the NRC and FENOC, agree that it is in the public interest to terminate this proceeding without further litigation, subject to the approval of the Atomic Safety and Licensing Board, and have agreed to the terms of the attached Settlement Agreement.

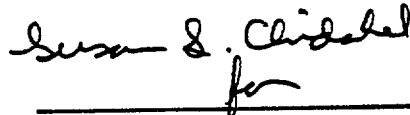
CONCLUSION

Inasmuch as the parties have determined to settle the matters at issue in this proceeding and such settlement is in the public interest, the Board should approve the attached Settlement Agreement and terminate the above-captioned proceeding.



Roy P. Lessy, Jr.
Akin, Gump, Strauss, Hauer & Feld, L.L.P.
1333 New Hampshire Avenue, N.W.
Washington, D.C. 20036
Counsel for FENOC
(202) 887-4500

Respectfully submitted,



Dennis C. Dambly
Assistant General Counsel for
Materials Litigation and Enforcement
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Counsel for NRC Staff
(301) 415-1681

Dated at Rockville, Maryland
this 22^d Day of May 2001.