

JAN 14 1977

Docket No. 50-346, 50-500
& 50-501

Toledo Edison Company
ATTN: Mr. Lowell E. Roe
Vice President, Facilities
Development
Edison Plaza
300 Madison Avenue
Toledo, Ohio 43652

Gentlemen:

Amendment No. 3
Construction Permit No. CPPR-80

Amendment No. 3 to Construction Permit No. CPPR-80 and a related notice, which has been forwarded to the Office of the Federal Register for publication are enclosed.

Amendment No. 3 to CPPR-80 has been issued pursuant to an Initial Decision (Antitrust) issued by the Atomic Safety and Licensing Board on January 6, 1977. This Initial Decision contains antitrust conditions to be included in licenses for Davis-Besse 1, 2 and 3 nuclear units. A copy of this Initial Decision is also enclosed for your information and use.

Sincerely,

15
John F. Stolz, Chief
Light Water Reactors Branch No. 1
Division of Project Management

Enclosures:

1. Amendment No. 3 to CPPR-80
2. Federal Register Notice
3. Initial Decision

cc: w/enclosures 1 & 2

Mr. Donald H. Hauser, Esq.
The Cleveland Electric Illuminating Company
P. O. Box 5000
Cleveland, Ohio 44101

566 Jacket for Initial DGC.

*Red D-BE#3
Dorchester*

*R. Conner
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OFFICE	LWR 1	LWR 1	OAIG	OELD	LWR 1	
SURNAME	MRusbrook	redLEngle	A. Toalston	J. Rutberg	J. Stolz	
DATE	1/13/77	1/14/77	1/14/77	1/14/77	1/14/77	

Toledo Edison Company

- 2 -

JUN 14 1977

cc: Gerald Charnoff, Esq.
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Ohio Department of Health
ATTN: Director of Health
450 East Town Street
Columbus, Ohio 43216

Harold Kahn, Staff Scientist
Power Siting Commission
361 East Broad Street
Columbus, Ohio 43216

Mr. Harry R. Johnson
Ottawa County Courthouse
Port Clinton, Ohio 43452

U. S. Environmental Protection Agency
Federal Activities Branch
Region V Office
ATTN: EIS COORDINATOR
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Chicago, Illinois 60604

Chief, Energy Systems (2)
Analysis Branch (AW-459)
Office of Radiation Programs
U. S. Environmental Protection Agency
Room 645, East Tower
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Washington, D. C. 20460

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

THE TOLEDO EDISON COMPANY

AND

THE CLEVELAND ELECTRIC ILLUMINATING COMPANY

(Davis-Besse Nuclear Power Station, Unit No. 1)

DOCKET NO. 50-346

CONSTRUCTION PERMIT AMENDMENT

Construction Permit No. CPPR-80
Amendment No. 3

Pursuant to an Initial Decision (Antitrust), dated January 6, 1977,
the Nuclear Regulatory Commission has amended Construction Permit
No. CPPR-80 by adding paragraph 3A. to read as follows:

3A. This permit is subject to the antitrust conditions contained in
Appendix A attached and are hereby incorporated in this permit.

This construction permit amendment is effective as of the date of issuance.

FOR THE NUCLEAR REGULATORY COMMISSION

John F. Stolz

John F. Stolz, Chief
Light Water Reactors Branch No. 1
Division of Project Management

Date of Issuance: JAN 14 1977

APPENDIX A

LICENSING CONDITIONS

1. Applicants shall not condition the sale or exchange of electric energy or the grant or sale of bulk power services upon the condition that any other entity
 - a. enter into any agreement or understanding restricting the use of or alienation of such energy or services to any customers or territories;
 - b. enter into any agreement or understanding requiring the receiving entity to give up any other bulk power service options or alternatives or to deny itself any market opportunities;
 - c. withdraw any petition to intervene or forego participation in any proceeding before the Nuclear Regulatory Commission or refrain from instigating or prosecuting any antitrust action in any other forum.
2. Applicants, and each of them, shall offer interconnections upon reasonable terms and conditions at the request of any other electric entity(ies) in the CCCT, such interconnection to be available (with due regard for any necessary and applicable safety procedures)

for operation in a closed-switch synchronous operating mode if requested by the interconnecting entity(ies). Ownership of transmission lines and switching stations associated with such interconnection shall remain in the hands of the party funding the interconnection subject however to any necessary safety procedures relating to disconnection facilities at the point of power delivery. Such limitations on ownership shall be the least necessary to achieve reasonable safety practices and shall not serve to deprive purchasing entities of a means to effect additional bulk service options.

3. Applicants shall engage in wheeling for and at the request of other entities in the CCCT:
 - 1) of electric energy from delivery points of Applicants to the entity(ies); and,
 - 2) of power generated by or available to the other entity, as a result of its ownership or entitlements* in generating facilities, to

* "entitlement" includes but is not limited to power made available to an entity pursuant to an exchange agreement.

delivery points of Applicants designated by the other entity.

Such wheeling services shall be available with respect to any unused capacity on the transmission lines of Applicants, the use of which will not jeopardize Applicants' system. In the event Applicants must reduce wheeling services to other entities due to lack of capacity, such reduction shall not be effected until reductions of at least 5% have been made in transmission capacity allocations to other Applicants in these proceedings and thereafter shall be made in proportion to reductions imposed upon other Applicants to this proceeding.*

Applicants shall make reasonable provisions for disclosed transmission requirements of other entities in the CCCT in planning future transmission either individually or within the CAPCO grouping. By "disclosed" is meant the giving of reasonable advance notification of future requirements by entities utilizing wheeling services to be made available by Applicants.

* The objective of this requirement is to prevent the pre-emption of unused capacity on the lines of one Applicant by other Applicants or by entities the transmitting Applicant deems noncompetitive. Competitive entities are to be allowed opportunity to develop bulk power services options even if this results in re-allocation of CAPCO transmission channels. This relief is required in order to avoid prolongation of the effects of Applicants' illegally sustained dominance.

4. a) Applicants shall make available membership in CAPCO to any entity in the CCCT with a system capability of 10 MW or greater;
- b) A group of entities with an aggregate system capability of 10 MW or greater may obtain a single membership in CAPCO on a collective basis.*
- c) Entities applying for membership in CAPCO pursuant to License Condition 4 shall become members subject to the terms and conditions of the CAPCO Memorandum of Understanding of September 14, 1967, and its implementing agreements; except that new members may elect to participate on an equal percentage of reserve basis rather than a P/N allocation formula for a period of twelve years from

* e.g., Wholesale Customer of Ohio Edison (WCOE).

date of entrance.* Following the twelfth year of entrance, new members shall be expected to adhere to such allocation methods as are then employed by CAPCO (subject to equal opportunity for waiver or special consideration granted to original CAPCO members which then are in effect).

- d) New members joining CAPCO pursuant to this provision of relief shall not be entitled to exercise voting rights until such time as the

* The selection of the 12-year period reflects our determination that an adjustment period is necessary since the P/N formula has a recognized effect of discriminating against small systems and forcing them to forego economies of scale in generation in order to avoid carrying excessive levels of reserves. We also found that P/N is not entirely irrational as a method of reserve allocation. We have observed that Applicants themselves provided adjustment periods and waivers to integrate certain Applicants into the CAPCO reserve requirement program. The 12-year period should permit new entrants to avoid initial discrimination but to accommodate and adjust to the CAPCO system over some reasonable period of time. Presumably new entrants will be acquiring ownership shares and entitlements during the 12-year period so that adverse consequences of applying the P/N formula will be mitigated.

system capability of the joining member equals or exceeds the system capability of the smallest member of CAPCO which enjoys voting rights.*

5. Applicants shall sell maintenance power to requesting entities in the CCCT upon terms and conditions no less favorable than those Applicants make available: (1) to each other either pursuant to the CAPCO agreements or pursuant to bilateral contract; or (2) to non-Applicant entities outside the CCCT.

6. Applicants shall sell emergency power to requesting entities in the CCCT upon terms and conditions no less favorable than those Applicants make available: (1) to each other either pursuant to the CAPCO agreements or pursuant to bilateral contract; or (2) to non-Applicant entities outside the CCCT.

* Our objective is to prevent impediments to the operation and development of an area-wide power pool through the inability of lesser entities to respond timely or to make necessary planning commitments. While we grant new member entities the opportunity to participate in CAPCO it is not our intent to relieve joining entities of responsibilities and obligations necessary to the successful operation of the pool. For those smaller entities which do not wish to assume the broad range of obligations associated with CAPCO membership we have provided for access to bulk power service options which will further their ability to survive and offer competition in the CCCT.

7. Applicants shall sell economy energy to requesting entities in the CCCT, when available, on terms and conditions no less favorable than those available: (1) to each other either pursuant to the CAPCO agreements or pursuant to bilateral contract: or (2) to non-Applicant entities outside the CCCT.

8. Applicants shall share reserves with any interconnected generation entity in the CCCT upon request. The requesting entity shall have the option of sharing reserves on an equal percentage basis or by use of the CAPCO P/N allocation formula or on any other mutually agreeable basis.

9. a) Applicants shall make available to entities in the CCCT access to the Davis-Besse 1, 2, and 3 and the Perry 1 and 2 nuclear units and any other nuclear units for which Applicants or any of them, shall apply for a construction permit or operating license during the next 25 years. Such access, at the option of the requesting entity, shall be on an ownership share, or unit participation or contractual pre-purchase of

power basis.* Each requesting entity (or collective group of entities) may obtain up to 10% of the capacity of the Davis-Besse and Perry Units and 20% of future units (subject to the 25-year limitation) except that once any entity or entities have contracted for allocations totaling 10% or 20%, respectively, no further participation in any given unit need be offered.

- b) Commitments for the Davis-Besse and Perry Units must be made by requesting entities within two years after this decision becomes final and within two years after a license application is filed for future units (subject to the 25-year limitation).

10. These conditions are intended as minimum conditions and do not preclude Applicants from offering additional bulk power services or coordination options to entities within or without the CCCT. However, Applicants shall not deny bulk power services required by these conditions to non-Applicant entities in the CCCT based upon prior commitments arrived in the CAPCO Memorandum of Understanding

* Requesting entities election as to the type of access may be affected by provisions of state law relating to dual ownership of generation facilities by municipalities and investor-owned utilities. Such laws may change during the period of applicability of these conditions. Accordingly, we allow requesting entities to be guided by relevant legal and financial considerations in fashioning their requests.

or implementing agreements. Preemption of options to heretofore deprived entities shall be regarded as inconsistent with the purpose and intent of these conditions.

The above conditions are to be implemented in a manner consistent with the provisions of the Federal Power Act and all rates, charges or practices in connection therewith are to be subject to the approval of regulatory agencies having jurisdiction over them.

The above conditions should be attached to licenses for the Davis-Besse 1, 2 and 3 nuclear units.

UNITED STATES NUCLEAR REGULATORY COMMISSION

DOCKET NO. 50-346

THE TOLEDO EDISON COMPANY

AND

THE CLEVELAND ELECTRIC ILLUMINATING COMPANY

DAVIS-BESSE NUCLEAR POWER STATION, UNIT NO. 1

NOTICE OF ISSUANCE OF AMENDMENT TO CONSTRUCTION PERMIT AND
AVAILABILITY OF INITIAL DECISION (ANTITRUST)

Notice is hereby given that pursuant to an Initial Decision (Antitrust), dated January 6, 1977, by the Atomic Safety and Licensing Board, the Nuclear Regulatory Commission has issued Amendment No. 3 to Construction Permit CPPR-80 issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company for construction of the Davis-Besse Nuclear Power Station, Unit No. 1, presently under construction at the Applicants' site on the southwestern shore of Lake Erie in Ottawa County, Ohio, approximately 21 miles east of Toledo, Ohio. The Board's Initial Decision includes antitrust conditions to be attached to licenses for the Davis-Besse 1, 2 and 3 nuclear units.

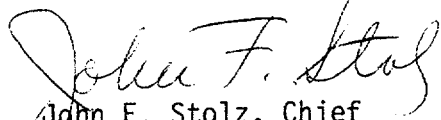
The Nuclear Regulatory Commission has found that the provisions of this amendment comply with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations published in 10 CFR Chapter I and has concluded that the issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public.

A copy of the Atomic Safety and Licensing Board's Initial Decision (Antitrust), dated January 6, 1977, and Amendment No. 3 to Construction Permit No. CPPR-80 are available for public inspection at the Commission's Public Document Room, 1717 H Street, N. W., Washington, D. C. and in the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452.

Single copies of the Initial Decision (Antitrust) and Amendment No. 3 to CPPR-80 may be obtained by writing to the U. S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland this ^{14th} day of January 1977.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in cursive script, reading "John F. Stolz".

John F. Stolz, Chief
Light Water Reactors Branch No. 1
Division of Project Management