

April 26, 1990

Docket No. 50-440

Mr. Alvin Kaplan, Vice President
Nuclear Group
The Cleveland Electric Illuminating
Company
10 Center Road
Perry, Ohio 44081

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Dear Mr. Kaplan:

SUBJECT: NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY
OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS
DETERMINATION AND OPPORTUNITY FOR HEARING (TAC NO. 75595)

Enclosed is a "Notice of Consideration of Issuance of Amendment to
Facility Operating License and Proposed No Significant Hazards
Consideration Determination and Opportunity for Hearing." This amendment
was requested by your letter dated March 30, 1990. This Notice was
forwarded to the Office of Federal Register for publication.

Sincerely,

151

Timothy G. Colburn, Sr. Project Manager
Project Directorate III-3
Division of Reactor Projects - III
IV, V and Special Projects
Office of Nuclear Reactor Regulation

Enclosure
As stated

cc w/enclosure:
See next page

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

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The Cleveland Electric Illuminating
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Perry, Ohio 44081

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Sincerely,

A handwritten signature in cursive script that reads "Timothy G. Colburn".

Timothy G. Colburn, Sr. Project Manager
Project Directorate III-3
Division of Reactor Projects - III
IV, V and Special Projects
Office of Nuclear Reactor Regulation

Enclosure
As stated

cc w/enclosure:
See next page

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The Cleveland Electric
Illuminating Company

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Perry Nuclear Power Plant
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Perry, Ohio 44081

Perry Nuclear Power Plant
Unit 1

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Division of Power Generation
Ohio Department of Industrial
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Columbus, Ohio 43216

The Honorable Lawrence Logan
Mayor, Village of Perry
4203 Harper Street
Perry, Ohio 44081

The Honorable Robert V. Orosz
Mayor, Village of North Perry
North Perry Village Hall
4778 Lockwood Road
North Perry Village, Ohio 44081

Attorney General
Department of Attorney General
30 East Broad Street
Columbus, Ohio 43216

Radiological Health Program
Ohio Department of Health
1224 Kinnear Road
Columbus, Ohio 43212

Ohio Environmental Protection
Agency
DERR--Compliance Unit
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1800 Watermark Drive
ATTN: Zack A. Clayton
Columbus, Ohio 43266-0149

Mr. Phillip S. Haskell, Chairman
Perry Township Board of Trustees
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Perry, Ohio 44081

State of Ohio
Public Utilities Commission
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Columbus, Ohio 43266-0573

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Illuminating Company
Perry Nuclear Power Plant
P. O. Box 97 SB306
Perry, Ohio 44081

UNITED STATES NUCLEAR REGULATORY COMMISSION
THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, ET AL.

DOCKET NO. 50-440

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO
FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The U. S. Nuclear Regulation Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-58, issued to the Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company and Toledo Edison Company (the licensees), for operation of the Perry Nuclear Power Plant Unit No. 1, located in Lake County, Ohio.

The proposed amendment revises and modifies a previous application for license amendment dated December 19, 1989, which was noticed in the Federal Register on February 7, 1990 (55 FR 4282). This revision to the previous submittal replaces the description of the Core Operating Limits Report (COLR) which is to be added as Technical Specification (TS) 6.9.1.9, and modifies the description of fuel assemblies contained in TS 5.3.1 to indicate that fuel assemblies shall be limited to those designs approved by the NRC staff for use in boiling water reactors (BWRs).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination is provided below.

The proposed changes would modify the description of the COLR to include the cycle-specific parameters which will be contained in the COLR using a revised format from the licensees' previous submittal. No substantive changes have been included in the change. The change to the description of fuel assemblies clarifies that only fuel assembly designs approved by the NRC staff for use in BWRs shall be used rather than designs using NRC-approved methodologies as stated in the previous submittal. The staff views these changes to the previous submittal as administrative in nature to clarify proposed TS changes previously submitted. The staff has reviewed their previous proposed no significant hazards consideration finding and has determined that it is still valid for the proposed revision to the licensees' previous submittal. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and should cite the publication date and page number of this FEDERAL REGISTER notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 4, 1990 , the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W.,

Washington, D.C. 20555 and at the local public document room located at the Perry Public Library, 3753 Main Street, Perry, Ohio, 44081. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR §2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

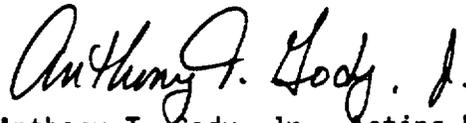
A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 325-6000 (in Missouri 1 (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John N. Hannon: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this FEDERAL REGISTER notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request, should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 30, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W. Washington, D.C. 20555, and at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Dated at Rockville, Maryland, this 26th day of April 1990.

FOR THE NUCLEAR REGULATORY COMMISSION



Anthony T. Gody, Jr., Acting Project Director
Project Directorate III-3
Division of Reactor Projects - III
IV, V and Special Projects
Office of Nuclear Reactor Regulation