

November 6, 1986

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Docket No. 50-440

Mr. Murray R. Edelman, Vice President  
Nuclear Operations Group  
The Cleveland Electric Illuminating  
Company  
P.O. Box 5000  
Cleveland, Ohio 44101

Dear Mr. Edelman:

SUBJECT: EXEMPTION FROM 10 CFR PART 50, APPENDIX E

Re: Perry Nuclear Power Plant, Unit No. 1

The Commission has issued the enclosed Exemption from the requirements of 10 CFR Part 50, Appendix E, Section IV.F., to the extent it requires that a full participation offsite emergency preparedness exercise be conducted within one year prior to operation of Perry Nuclear Power Plant, Unit No. 1 above 5% of full power, provided that such an exercise is conducted before or during May 1988.

This exemption is being forwarded to the Office of the Federal Register for publication.

Sincerely,

**Original signed by**

Paul Leech, Project Manager  
BWR Project Directorate No. 4  
Division of BWR Licensing

Enclosure:  
Exemption

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Mr. Murray R. Edelman  
The Cleveland Electric  
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Perry Nuclear Power Plant  
Units 1 and 2

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the matter of )  
Cleveland Electric Illuminating ) Docket No. 50-440  
Company, et al )  
(Perry Nuclear Power Plant, Unit 1) )

EXEMPTION

I.

Cleveland Electric Illuminating Company (CEI), Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, and Toledo Edison Company (the licensees) are the holders of Facility Operating License No. NPF-45 which authorizes operation of Perry Nuclear Power Plant, Unit No. 1, (the facility) at steady-state reactor power levels not in excess of 3579 megawatts thermal. Pending Commission approval, operation is restricted to power levels not to exceed 5% of full power (178 megawatts thermal). The license provides, among other things, that it is subject to all rules, regulations, and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect. The facility includes a boiling water reactor and is located at the licensees' site in Lake County, Ohio.

II.

Section 50.54(q) of 10 CFR Part 50 requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.1 of Appendix E requires that a full participation exercise which tests as much of the licensee, state and local emergency plans as is reasonably achievable without mandatory public participation shall be conducted for each site at which a power reactor is

located for which the first operating license for that site is issued after July 13, 1982. This exercise shall be conducted within 1 year before the issuance of the first operating license for full power and prior to operation above 5% of rated power of the first reactor, and shall include participation by each state and local government within the plume exposure pathway EPZ and each state within the ingestion exposure pathway EPZ.

The "underlying purpose" of the Appendix E, Section IV.F.1 requirement is to ensure that an adequate state of emergency response capability is demonstrated through the conduct of an emergency preparedness exercise and is maintained until the full-power licensing requirements regarding periodic exercises become effective.

### III.

By letter dated October 30, 1986, CEI, acting for all of the licensees, requested an exemption from the requirements of Section IV.F.1 of Appendix E, so that operation of the facility can proceed above 5% of its rated power, upon issuance of a full power operating license by the Commission, without conducting another emergency preparedness exercise. The licensees' request was submitted in response to a determination by the Federal Emergency Management Agency (FEMA) that the exercise conducted on April 15, 1986 did not satisfy the criteria for full participation by the State of Ohio.

A full participation exercise involving the testing of applicant, state and local emergency plans for Perry was conducted on November 28, 1984, in expectation that a full power operating license would be issued within one year. The onsite portion of the November 28, 1984 exercise was observed and evaluated

by the NRC and documented in Inspection Report No. 50-440/84-24 (DRSS); 50-441/84-22 (DRSS). There were no significant deficiencies in onsite preparedness identified as a result of the exercise. The offsite portion of the November 28, 1984 exercise was observed and evaluated by FEMA and representatives of the member agencies of the FEMA Region V Regional Assistance Committee. FEMA provided its report of the exercise on January 31, 1985. In this report there were no "Category A" deficiencies identified as a result of the exercise. (Category A deficiencies were defined as deficiencies of the type that would cause a finding that offsite emergency preparedness was not adequate to provide reasonable assurance that appropriate protective measures can be taken to protect the health and safety of the public in the vicinity of the plant in the event of a radiological emergency). On May 23, 1985, FEMA reported that the State of Ohio's schedule of corrective actions for the inadequacies identified in the exercise was adequate. In Supplement No. 7 of the NRC staff's Safety Evaluation Report (SSER 7), the staff concluded that the state of onsite and offsite preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at the Perry Nuclear Power Plant. This conclusion was based on: (i) the March 1, 1984 FEMA findings and determinations on the adequacy of state and local emergency plans; (ii) the successful testing of those plans during the November 28, 1984 exercise; and (iii) on the NRC assessment of the adequacy of the applicants' onsite emergency plan and preparedness.

Since the November 28, 1984 full participation exercise at Perry, the State of Ohio has fully participated in a July 1985 exercise at Davis-Besse. There were no deficiencies identified by FEMA that would lead to a negative

finding as a result of the July 1985 exercise at Davis-Besse. In addition, the State partially participated in the November 20, 1985 licensee only exercise for the Perry Plant, to the extent that a State representative actively took part at the near site Emergency Operations Facility (EOF) in protective action decisionmaking and offsite sampling, the Joint Public Information Center was activated and coordination with State representatives was demonstrated, and communications were maintained between the licensee, State and local Emergency Operations Centers (EOCs).

On April 15, 1986, CEI conducted an exercise for the Perry Plant involving substantial participation by the State of Ohio and full participation by the Counties of Lake, Geauga and Ashtabula. The onsite portion of the April 15, 1986 exercise was observed and evaluated by the NRC and documented in Inspection Report No. 50-440/86009 (DRSS); 50-441/86003 (DRSS). There were no significant emergency preparedness deficiencies in either the November 20, 1985 exercise or the April 15, 1986 exercise.

FEMA's report of the April 15, 1986 offsite exercise, dated September 5, 1986, characterized this exercise as a joint, full participation exercise for the Ashtabula, Geauga and Lake Counties in Ohio, and a partial participation exercise for the State of Ohio.

FEMA's report of September 5, 1986, identifies 18 objectives selected by the State of Ohio to be demonstrated during the exercise. These objectives included the following 10 key response functions (CEI's letter of October 30, 1986):

- Activation and Staffing
- Emergency Operations Management

- Facilities
- Communications
- Dose Assessment and Protective Recommendations
- Public Alerting and Instructions
- Protective Actions
- Radiological Exposure Control
- Media Relations
- Field Monitoring

Although the exercise was a partial participation exercise with respect to the state, FEMA found that 17 of the 18 objectives were adequately addressed while one objective in the area of field monitoring, specifically radiological sampling sites, required corrective action. However, FEMA found no deficiencies that would lead to a negative finding as a result of the April 15, 1986 exercise. On September 11, 1986, FEMA reported that the State of Ohio's schedule of corrective action for the area of field monitoring inadequacy was adequate. The April 15, 1986 exercise included extensive FEMA evaluation, involving 7 evaluators (out of 21 total) for the State of Ohio and also included representation in the EOC from the Ohio Environmental Protection Agency and the Ohio Disaster Services Agency, with additional state personnel at other locations during the exercise. The results of the April 15, 1986 exercise, which are documented in the FEMA report, demonstrate that an adequate state of offsite emergency preparedness has been maintained. Further, by memorandum dated November 4, 1986, FEMA stated that granting this exemption would not alter the FEMA finding that there is reasonable assurance that adequate protective measures

can be taken in the event of a radiological emergency at the Perry Nuclear Power Plant. Thus, the underlying objective of the rule has been met. Consequently, an additional full participation exercise prior to operation above 5% of power is not necessary.

In the exercise exemption request, CEI specifies that the next scheduled exercise for Perry is an onsite exercise in May 1987 with participation by the state and counties limited to communication interfaces. In addition, the next scheduled exercise for Perry for full participation by the state and counties is May 1988. CEI went on further to point out that, with exercises currently scheduled by the state at other sites in early 1987, the scheduling of another full participation exercise at Perry in May 1987 or earlier would place an unnecessary burden on state and county resources.

#### IV

Based on its review of the licensees' exemption request, the NRC Staff finds that the following factors support granting the requested exemption:

1. The conduct of a full participation emergency preparedness exercise in November 1984 where the staff identified no significant deficiencies in onsite preparedness and leading to a favorable FEMA finding on offsite preparedness.
2. Full participation by the State of Ohio in the exercise at Davis-Besse in July 1985, the planned full participation by the state in the scheduled

exercise at Perry in May 1988, and the state of preparedness exhibited by the State of Ohio during the April 15, 1986 exercise.

3. The full participation of local response organizations in exercises at Perry in November 1984 and April 1986.

Based on the foregoing, the staff concludes that an adequate state of emergency preparedness has been demonstrated and maintained, thereby meeting the underlying purpose of the rule. This constitutes the special circumstances described in 10 CFR 50.12(a)(2)(ii).

The Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by the licensees' letter dated October 30, 1986, as discussed above, is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

Accordingly, the Commission hereby approves the following exemption:

"Perry Nuclear Power Station, Unit No. 1, is exempt from the requirements of 10 CFR Part 50, Appendix E, Section IV.F. for the conduct of an offsite full participation emergency preparedness exercise, provided that such an exercise is conducted before or during May 1988."

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this Exemption will have no significant impact on the environment (51 FR 40361). This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 6th day of November 1986.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in cursive script, appearing to read "Robert M. Bernero".

Robert M. Bernero, Director  
Division of BWR Licensing  
Office of Nuclear Reactor Regulations

Dated at Bethesda, Maryland, this                      day of                      1986.

FOR THE NUCLEAR REGULATORY COMMISSION

Robert M. Bernero, Director  
Division of BWR Licensing  
Office of Nuclear Reactor Regulations

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