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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



Before the Commission

In the Matter of)	
)	
THE TOLEDO EDISON COMPANY and)	
THE CLEVELAND ELECTRIC ILLUMINATING)	Docket No. 50-346A
COMPANY)	
(Davis-Besse Nuclear Power Station,)	
Unit 1))	
)	
THE CLEVELAND ELECTRIC ILLUMINATING)	
COMPANY, ET AL.)	Docket Nos. 50-440A
(Perry Nuclear Power Plant,)	50-441A
Units 1 and 2))	
)	
THE TOLEDO EDISON COMPANY, ET AL.)	
(Davis-Besse Nuclear Power Station,)	Docket Nos. 50-500A
Units 2 and 3))	50-501A

APPLICANTS' MOTION FOR AN EXTENSION OF TIME WITHIN WHICH TO PETITION FOR REVIEW BY THE COMMISSION

On September 6, 1979, the Applicant utilities^{*/} in the above-captioned proceeding were served with a copy of the Atomic Safety and Licensing Appeal Board ("Appeal Board") decision (ALAB-560) affirming as modified the Initial Decision of the Atomic Safety and Licensing Board ("Licensing Board"). Pursuant to Section 2.786(b)(1) of the Commission's Rules of Practice, 10 C.F.R. § 2.786(b)(1) (1979), Applicants may file a petition for review with the Commission within fifteen days thereafter -- or

^{*/} These utilities are: The Cleveland Electric Illuminating Company, The Toledo Edison Company, Ohio Edison Company, Pennsylvania Power Company, and Duquesne Light Company.

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by September 21, 1979. Applicants respectfully move for a thirty-day extension of time within which to file such a petition. As grounds for this motion, Applicants state as follows:

1. ALAB-560 is a 314-page antitrust decision by the Appeal Board. It consists of a lengthy opinion by former Appeal Board member Mr. Sharfman, and a briefer majority opinion by Appeal Board members Messrs. Rosenthal and Salzman that in part concurs with and in part disagrees with the decision of Mr. Sharfman. The significance of ALAB-560 to the Commission's antitrust responsibilities is apparent from the face of the decision. As Messrs. Rosenthal and Salzman note, the instant proceeding is only the second full-fledged Licensing Board antitrust decision on the merits to come before the Appeal Board (slip op. at 5). Many of the issues raised on appeal -- as, for example, those dealing with relief -- are questions of first impression, and may well merit careful attention by the Commission.

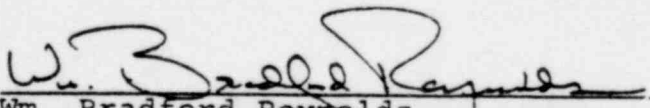
2. However, given the breadth and complexity of the legal and factual issues raised by ALAB-560, and the fact that five utilities are involved in these three consolidated dockets, it is simply impossible for the Applicants to undertake a meaningful review of the matter within the fifteen days normally allotted by the Commission's Rules of Practice. Indeed, it is impossible for Applicants to determine whether they desire even to file a review petition with the Commission by September 21, let alone formulate and carefully inform the Commission of the grounds for review if that is deemed desirable.

3. Nor will the brief extension of thirty days now sought by the Applicants prejudice the rights of any other party to this proceeding. The license conditions formulated by the Appeal Board are effective immediately, and the Applicants have not sought a stay of those conditions. By allowing Applicants the necessary time within which to consider ALAB-560 and formulate the grounds for review if such review is eventually sought, the Commission will be better able to judge for itself the significance of this case. Such assistance to the Commission by the parties to the proceeding -- especially when the record is as large and cumbersome as that here -- was a primary goal behind the Commission's decision to authorize review petitions. Thus, the interests of justice will be fully served by granting the requested extension of time.

WHEREFORE, the Applicants respectfully request the Commission to issue an order setting October 22, 1979, as the date by which any party seeking Commission review of ALAB-560 must file a petition for such review.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE


Wm. Bradford Reynolds
Robert E. Zahler

Counsel for Applicants

Dated: September 19, 1979

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Applicants' Motion for an Extension of Time Within Which to Petition for Review by the Commission" were served upon each of the persons listed on the attached Service List, by hand delivering copies to those persons in the Washington, D. C. area, and by mailing copies, postage prepaid, to all others, all on this 19th day of September, 1979.

SHAW, PITTMAN, POTTS & TROWBRIDGE

By: Wm. Bradford Reynolds
Wm. Bradford Reynolds
Counsel for Applicants

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SERVICE LIST

Alan C. Rosenfeld, Esq.
Counsel, Atomic Safety and
Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20545

Carola F. Shattuck, Esq.
Atomic Safety and Licensing
Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20545

Richard C. Spitzer, Esq.
Atomic Safety and Licensing
Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20545

Atomic Safety and Licensing
Appeal Board Panel
U.S. Nuclear Regulatory Commission
Washington, D. C. 20545

Mr. Samuel J. Chilk
Secretary
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Ivan W. Smith, Esq.
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20545

John K. Fyfe, Esq.
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20545

Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D. C. 20545

Docketing & Service Section
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D. C. 20545

Joseph Roberts, Esq.
Benjamin S. Vogler, Esq.
Roy D. Lacey, Jr., Esq.
Office of the Executive
Legal Director
U.S. Nuclear Regulatory Commission
Washington, D. C. 20545

1147 244

Joseph C. Saunders, Esq.
Administrative Division
Department of Justice
Washington, D. C. 20530

Melvin G. Berger, Esq.
Janet R. Cohen, Esq.
Administrative Division
P. O. Box 14141
Washington, D. C. 20044

Reuben Goldberg, Esq.
David C. Steinberg, Esq.
Michael D. Clark, Esq.
Goldberg, Weinman & Steinberg
Suite 430
1700 Pennsylvania Ave., N.W.
Washington, D. C. 20006

Jack M. Schulman, Esq.
Division of Law
Robert C. Hays, Esq.
1st Nat'l. Association of Law
City of Cleveland
214 City Hall
Cleveland, Ohio 44114

Frank R. Ciolek, Esq.
Special Inv's Attorney General
3000 21st
1000 North Main
Washington, D. C. 20004

Robert H. Beckman, Esq.
Robert W. Gorman, Esq.
William C. Bennett, Esq.
1700 Cleveland Building
1700 Cleveland Building
Cleveland, Ohio 44114

Michael M. Bailey, Esq.
Paul M. Smith, Esq.
William H. Hays, Esq.
P. O. Box 2000
Toledo, Ohio 43601

Russell C. Spaulding, Esq.
Thomas A. Kayser, Esq.
Ohio Edison Company
75 South Main Street
Akron, Ohio 44308

Terence S. Harlow, Esq.
A. Edward Gieseler, Esq.
Steven A. Berger, Esq.
Steven B. Hall, Esq.
Winthrop, Strisson, Pitsman & Roberts
40 Wall Street
New York, New York 10005

Walter P. Wandzilski, Esq.
General Attorney
Dunsmuir Light Company
400 Sixth Avenue
Washington, D. C. 20004

David Maxwell Oles, Esq.
Roth Smith Shaw & Moolay
Third Floor Building
Box 2000
Washington, D. C. 20004

Lee A. Day, Esq.
Joseph A. Mangan, Esq.
Roth Smith Shaw & Moolay
Suite 300
1100 Constitution Avenue
Washington, D. C. 20004

Charles R. Haggerty, Esq.
Secretary and General Counsel
Pennsylvania Power Company
One West Washington Street
New Orleans, LA 70110

John J. Marzella, Esq.
CRK, Inc.
21 Dupont Circle, N.W.
Washington, D. C. 20036

Alan S. Buchman, Esq.
Squire, Sanders & Jeffrey
1000 Union Center Building
Cleveland, Ohio 44114

David A. Martin, Esq.
Robert M. Greenberg, Esq.
Robert S. McKinn, Esq.
Administrative Division
10 E. Broad Street, Room 7100
Columbus, Ohio 43215

Christopher S. Schmitt, Esq.
Roth Smith Shaw & Moolay
1000 Union Center Building
Cleveland, Ohio 44114