

Reg. Files



UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

| | | |
|----------------------------------|---|---------------------|
| In the Matter of |) | |
| |) | |
| The Toledo Edison Company and |) | Docket Nos. 50-346A |
| The Cleveland Electric Illumina- |) | 50-440A |
| ting Company |) | 50-441A |
| (Davis-Besse Nuclear Power |) | |
| Station, Unit 1) |) | |
| |) | |
| The Cleveland Electric Illumina- |) | |
| ting Company, <u>et al.</u> |) | |
| (Perry Nuclear Power Plant, |) | |
| Units 1 and 2) |) | |

ORDER ON OBJECTIONS
TO INTERROGATORIES AND DOCUMENT REQUESTS

A. Preliminary

Pursuant to schedule set for motions on discovery, each of the parties ^{1/}objected on various grounds to various interrogatories and document requests filed pursuant to 10 CFR 2.740(b) and 2.741 by other parties. Specifically, (a) Applicant, Cleveland Electric Illuminating Company (CEI), objected to the interrogatories and document requests of the City of Cleveland (City), (b) Applicants (Toledo Edison Company, Pennsylvania Power Company, Ohio Edison and Duquesne Light Company) objected to City's interrogatories and document requests, (c) Applicants

1/ Except American Municipal Power-Ohio (AMP-O)

objected to the joint request of the AEC Staff (Staff) and the Department of Justice (DOJ) for answers to interrogatories and for production of documents, (d) City objected to Applicants' initial interrogatories and request for documents, (e) DOJ moved for a protective order as to certain discovery requests made by Applicants, (f) the Staff objected to certain of Applicants' interrogatories and document requests, and, also objected to certain discovery requests and interrogatories by Applicants and by the City directed to other parties. Accordingly, a pre-hearing conference was held on September 16, 1974, to consider each objection. All parties appeared and participated except AMP-0. The objections as listed above will be considered in turn.

B. Objections of Applicant, CEI,
to City's Proposed Discovery

1. On August 26, 1974, City served interrogatories and documentary requests on CEI. On September 9, 1974, CEI filed objections to these interrogatories and document requests. As stated above, the Board held hearings on September 16, 1974, at which argument with respect to these objections was presented.

2. The Board makes the following disposition with respect to the general objections raised by CEI as to City's discovery requests:

(a) CEI objects to the definition of the term "Company" insofar as it includes subsidiaries or affiliates of CEI. This objection is overruled. Section 2.741(a) permits discovery with respect to materials in the possession, custody or control of the party upon whom the request is served ..."

To the extent that CEI's relationships with its subsidiaries and affiliates have placed it in possession, custody or control of the materials being sought, production should proceed in accordance with the Board's rulings enunciated herein (U.S. v. Continental Can Co., 22 FRD 241 [1958]).

(b) CEI objects to the definition of "electric utilities" contending that the term is too broad in terms of its geographic impact and proposed ownership of electric power facilities. The Board, for purposes herein, defines "electric utilities" to mean commercial firms, cooperatives, governmental units, or similar organizations that generate, transmit or distribute electric power within the relevant market(s). Included within this definition are those proposals known to CEI related to owning or controlling electric power facilities.

(c) CEI objects to the definition of "competition". The objection is sustained in part. The definition is revised to interpret "any other electric utility company" as any actual or potential competitor of CEI.

(d) CEI objects to the scope of production in terms of applicable time periods covered by the discovery requests and requests to produce documents on file at public agencies. The Board heard argument from all parties with respect to an appropriate commencement date for discovery, and the Board has concluded that a uniform commencement date is appropriate. Various dates were suggested, most of which related to the founding date of the CAPCO pool. CEI indicated that the effective date of formation of this pool was September 1, 1967. The Board has received proposals to limit discovery to a period commencing two years prior to this formation date and alternate proposals to commence discovery as of January 1, 1964. The Board rules that the commencement date for discovery purposes shall be September 1, 1965. This will allow the parties to discover documents generated in connection with the formation of the CAPCO pool for a period of approximately 2 years prior to the formation of the pool. With respect thereto the Board also rules that upon application to the Board and for good cause shown the

parties may request discovery prior to September 1, 1965, for particular, specific, requests.

(e) With respect to the objection relating to production of documents on file with the public agencies, the objection is overruled. CEI is requesting expedited action by the Board in its license application. It is inconsistent with the purported need for expedition to insist that other parties be put to the time-consuming burden of visiting various public agencies to obtain information which is more readily available in Applicant's own files.

3. CEI objects to City's rejoinder in certain interrogatories propounded by the Staff and DOJ. Any decision of the Board with regard to such common interrogatories will apply to all parties affected.

4. CEI objects to document request 1(d) which seeks information on the occupations of CEI directors on the ground that this information is irrelevant. City contends that these directors may have utilized their other business connections to assist CEI in the creation or maintenance of a situation inconsistent with the antitrust laws. This objection is overruled in part. CEI shall comply by listing for each director his occupation, all banks or other financial institutions (including insurance companies, investment banking firms, and securities firms) as to which the CEI director is an officer

or director, and all public utilities or electrical supply or construction companies as to which the CEI director serves as an officer or director.

5. CEI objects to document request 16(d) relating to legislation and constitutional revision affecting the ability of electric utilities to own, finance and construct facilities and to sell electricity. CEI contends that these documents are irrelevant to the proceedings and that it would be placed under a severe burden to conduct a search for such documents. The objection is sustained on the basis that CEI's activities, if any, in the areas of legislation or constitutional revision do not possess the requisite degree of relevance to these proceedings. Assuming that CEI did undertake legislative activities directed to the enactment of statutes which would affect the competitive position of the City, these activities nonetheless would not constitute antitrust violations in and of themselves. The Board might consider whether such activities were part of a broader program to create or maintain a situation inconsistent with the* antitrust laws, but under the doctrine of Parker v. Brown, 317 US 341, (1942), legislative judgments with respect to legislative structure may not be considered as antitrust violations even though they have an effect upon commerce.

6. CEI objects to document request 16(f) which calls for materials relating to municipal elections claiming burden, and further claiming that political activities are immunized from antitrust attack. CEI contends that the Noerr Doctrine prevents discovery relating to political matters. The Board does not agree that the blanket assertion of the Noerr Doctrine precludes all such discovery, and on that basis the objection would be overruled. However, the City thus far has failed to demonstrate the relevance of the information sought under this request to the issues admitted in this proceeding and on that basis the objection is sustained. In the event relevance is clearly demonstrated, the Board may reconsider its ruling.

7. CEI objects to document request 16(g) pertaining to litigation documents because it calls for privileged materials and is unduly broad. CEI also claims that certain activities covered by this request may be immunized from antitrust challenge since they would not fall within the "sham" lawsuit exception as set forth in California Motor Transport Company v. Trucking Unlimited, 404 U.S. 508 (1972). The City cited an example of one lawsuit which it contends has anticompetitive overtones. The City further indicated that it would be difficult, without discovery, to gauge the number of lawsuits to determine whether the "sham" exception applied. The Board agrees that it is impossible to determine if the "sham" exception applies

without permitting the discovering party to ascertain the extent of such litigation. Also, with respect to Applicant's claim that the request is unduly broad, we note that it is limited to litigation in opposition to the construction of competing generation or transmission facilities. Accordingly the objection is overruled with regard to litigation that may have been initiated by CEI and discovery is permitted thereto except where CEI asserts an "attorney-client" privilege which shall be handled in accordance with the provisions of Section H below. The objection of CEI is sustained with respect to litigation that may have been initiated by other entities.

8. CEI objects to document request 16(i) calling for information regarding labor union negotiations on the basis that this information is irrelevant to any issue in this proceeding. The objection is sustained.

9. CEI objects to document request 16(j) which seeks fossil fuel supply contracts, on the basis that the information is irrelevant and confidential. As to confidentiality, data otherwise discoverable may not be withheld from attorneys, or economic and technical advisors employed by a party even though the request does involve information considered by a party to be confidential business information. However, the Board will assist the parties in protecting arguably confidential business information from

coming to the attention of business rivals. The Board intends to treat requests for confidential treatment in a uniform fashion, and it sets forth as Appendix A to this order a standard protective order which will apply to all requests for confidential treatment except as good cause may be shown for amendment. With respect to the relevancy objection raised as to this request, such objection is overruled, except that the Board will not at this time require the production of collateral documents pertaining to the supply contracts sought.

10. CEI objects to document request 17(a) relating to electrical load growth or area growth. The parties have reached agreement whereby the City will rephrase its request and CEI will withdraw its objection to the request as amended.

11. CEI objects to document request 17(b) which seeks documents pertaining to retail electrical service franchises, as being irrelevant to this proceeding. The City further clarified its request as being limited to any municipality which offers franchises to serve customers within the said municipality at retail. The objection is overruled and discovery permitted except where CEI asserts an "attorney-client" privilege, in which case the provisions of Section H below shall apply.

12. CEI objects to document request 18 which seeks correspondence between it and the Edison Electric Institute and the National Association of Electric Companies on the ground that the request is unduly broad and irrelevant to these proceedings. However CEI's assertion as to burden in complying with the request, which it deemed unduly broad, has been made without more than a passing reference to indexes available to CEI, and a cursory review of its own files. It is the Board's understanding that various indexes maintained by CEI may provide access to the materials being sought. Accordingly, the Board overrules the objection based on burden, but hereby directs that the search not extend beyond files which appear responsive to said request 18 as such files may be identified through said indexes or through files identified as relevant by CEI department heads.

With respect to relevance, request 18 must be examined as to each subheading. The objection is sustained as to subheading (a) relating to construction and acquisitions. The objection is overruled with respect to subsections (b), (c) and (d) which relate to power supply to municipals, coordination and interconnection with municipals, and territorial or customer allocations.

13. CEI objects to document request 20(e), on the ground that it is unduly broad, as it seeks information pertaining to each wholesale electric customer of the company. The City responded that, according to its definition of wholesale, very few customers of CEI are involved in this request. The objection is sustained as to all customers except those known by CEI to fall into the category of wholesale customers as defined by the City. Moreover, the objection is sustained as to all subheadings, except subheading (b) which relates to the sale or purchase of electric power, subheading (c) concerning wholesale competition and any communications with representatives of Boards of Directors, and subheading (e) on communications pertaining to the matters covered in subheadings (b) and (c).

14. CEI objects to document request 21(c) which seeks documents relating to NERC, ECAR and NAPSIC, on the basis of relevancy and burden. The objection is sustained as to all documents except those dealing with membership in these groups, and decisions setting qualifications for membership and full participation.

15. CEI objects to document request 22 insofar as it pertains to unexecuted agreements for the reason that working drafts may not accurately reflect the policy or position of the company and that only executed documents may be considered to state the companies' position. The City argues that

reference to working drafts may provide evidence with respect to Applicant's intentions and motives in negotiating such agreements. The objection is sustained, except as to un-executed documents relating to membership and membership qualifications in CAPCO.

16. CEI objects to document request 23, on the basis of relevancy, and states that this request constitutes a "fishing expedition". The objection is sustained as to all documents except that discovery is permitted as to CAPCO and ECAR documents.

17. CEI objects to document request 25 relating to the formation of holding companies to become the parent of some or all the Applicants, on the ground that this information is irrelevant to the issues of this proceeding. The objection is sustained.

18. CEI objects in part to document request 26, on the ground that it seeks production of pool arrangements under consideration. CEI contends that working papers may not represent its final position. Nevertheless, the information being sought may well be related to the creation or maintenance of a situation inconsistent with the antitrust laws and is related to the issues of this proceeding. Accordingly, the objection is overruled.

19. CEI objected to documentary request 27. The City has amended this request and Applicant has withdrawn its objection to the request as amended.

20. CEI objected to document request 28, but the parties subsequently informed the Board that they are in agreement with respect to the method of compliance with this request and the objection is withdrawn.

21. CEI objected to document request 31, but the Board subsequently has been informed that the parties reached an agreement and the objection is withdrawn.

22. CEI objected to document request 32(a) but subsequently the parties reached agreement with respect to the method of compliance with this request and the objection is withdrawn.

23. CEI objects to document request 35, on the basis that it calls for drafts of contracts which may not represent its final position. The objection is overruled.

24. CEI objects to document request 37(a) which seeks information on cost analyses of other Ohio utilities as burdensome and irrelevant. The Board agrees that such request is irrelevant to the issues under consideration and the objection is sustained.

25. CEI objects to document request 37(b) as reformulated in a letter dated September 18, 1974 from City's counsel to the Board. The request seeks participation studies between the company and other electric utilities with respect to nuclear or fossile fuel generating facilities and transmission facilities. CEI objects, on the ground that the request is vague and compliance would be burdensome. This request may be highly relevant to the issues defined by the Board and to the creation of a situation inconsistent with the antitrust laws. Accordingly, the objection is overruled.

26. CEI objected to document request 37(c) but subsequently the parties reached agreement with respect to a method of compliance with this request and the objection was withdrawn.

27. CEI objects to document request 37(d) as reformulated in letter dated September 18, 1974, from City's counsel, to the Board, relating to generation and transmission integration studies, and document request 37(e) relating to line extension policy. CEI contends these requests are too broad and unduly burdensome. The objection is sustained as to all routine daily or short-term business reports, but is overruled with respect to all policy and planning documents.

28. CEI objects to document requests 37(f) and 37(g) relating to reliability data for generating units and transmission lines. CEI contends that these requests are burdensome and irrelevant to the issues of this proceeding. CEI does offer,

however, to furnish a summary analysis of major activities relating to transmission reliability. The objections are sustained except that CEI will provide a summary analysis in accordance with the terms of its offer.

29. CEI objects to document request 37(h) seeking documents relating to outage time in 1973. The City amended its request at the prehearing conference and the objection to the request as amended was withdrawn.

30. Upon CEI's objection to document request 37(i), the request was withdrawn.

31. CEI objects to document request 38 which seeks information relating to engineering consultants. The City amended the request, and the objection was withdrawn as to said amended request.

32. CEI objects to document request 39 relating to yearly peak flow diagrams through 1985. The request was amended and the objection withdrawn to the amended request.

33. CEI objects to document request 40 which seeks press releases. The request was limited to reduce the asserted burden and the objection is overruled with respect to the amended request.

34. CEI objects to document request 41 which seeks all documents pertaining to capital and operation and maintenance cost factors on grounds that the information is too broad in scope, irrelevant, and production would impose an undue burden. City indicated the information was desired to assist in utilizing the same factors as CEI in constructing any studies for possible use at the hearings. City has not commenced any study nor does it have affirmative plans to do so. The objection is sustained since the City has failed to demonstrate any current need for this type of information. In the event the City does decide to undertake such a study, the parties are directed to confer for the purpose of utilizing the same definitions and base data in their respective studies to the maximum extent possible.

35. CEI objects to document request 43. The parties conferred after the hearing, reported that City had amended document request 43, and that CEI withdrew its objection to the amended request.

36. CEI objects to document request 44 which seeks information relating to actual and proposed power purchases. CEI withdrew its objection to that part of the request relating to actual wholesale sales or transactions (the City

narrowed the scope of its request to wholesale sales or transactions). The objection is overruled with respect to proposed sales of power at wholesale, as so defined and limited by City.

37. CEI objects to document request 51 which relates to the proposed Yankee-Dixie generation and transmission system on grounds that this information is irrelevant to these proceedings. The City argues that the Yankee-Dixie project would make available additional bulk power in the wholesale market and would make available an alternate transmission grid. Thus, the City contends that the availability (or nonavailability) of alternate sources of power relates to potential competition. The objection is sustained, except that discovery is permitted in the limited area of planning, policy and study documents.

38. CEI objects to document request 54, on the grounds that the information is irrelevant. The City argues that such information would show whether CEI determines its rates on a cost basis or on some other basis which might indicate an intent to monopolize on the part of CEI. The objection is overruled.

39. CEI objects to document request 55 which seeks cost of servicing studies relating to wheeling, on the basis that wheeling is not relevant to any contention of City. City cites

paragraphs 16, 17, and 19 of its Perry petition as an indication of the fact that wheeling was included among its contentions. The objection is overruled.

40. CEI objects to document requests 56-62 relating to advertising and public relations, firms, materials and expenditures of CEI, on the grounds that this information is irrelevant. The objection is sustained.

41. CEI objects to document requests 70, 72, 74, 76, 83-88, on the basis that the specific activities as to which information is sought relate to conduct rather than structure. The parties are reminded that the Board's second prehearing order of July 25, 1974, did not eliminate from these proceedings all reference to conduct. The issues in these proceedings are those set forth by the Board in said prehearing order and the parties should address themselves to those issues without undue emphasis as to whether a particular issue relates to structure or to conduct. Discovery focusing on conduct but relating to an issue designated by the Board will be permitted if otherwise unobjectionable.

With that background, we turn to the specific requests under objection. CEI's objection to request 70 relating to events occurring in 1960-61 is sustained on the ground that these events occurred prior to the Board's cut-off date and

insufficient cause was demonstrated by City to render it advisable to select an earlier date on such request. Request 72 pertains to correspondence relating to amending or defeating Bond Ordinance No. 2104-72 including contacts between CEI representatives and Bond Counsel for the City. The objection to request 72 is sustained, except that discovery is permitted as to correspondence or documents given to, or relating to said Bond Counsel. Attempts to persuade City that it would be legislatively unwise to accept a pending bond proposal seems so far within the ambit of the Noerr-Pennington Doctrine as to preclude discovery on this point. On the other hand, contacts by CEI representatives with City's Bond Counsel may relate to attempts to prevent financing of this project and may lead to evidence that Applicant's activities were for the purpose of creating or maintaining a situation inconsistent with the antitrust laws. The Board notes that, throughout the hearing, counsel for City indicated that City had information to the effect that CEI was engaged directly and indirectly in attempts to interfere with City's financial standing.

42. CEI objects to document request 74 which seeks documents relating to the draft of bond ordinances. The objection is sustained except as to correspondence and enclosures between CEI and any law firm representing City or Bond Counsel for City.

43. CEI objects to document request 76 which relates to a 1939 bond issue. The objection is sustained, on the ground that the information sought is too remote from these proceedings.

44. CEI objects to document requests 83-88 which relate to campaign activities within the City of Cleveland and appointments of municipal officials within the city. These objections are sustained.

45. CEI objects to document request 71 which relates to the economic conditions of the area served by CEI regarding future projections, contending that the request is irrelevant. The objection is sustained.

46. CEI objects to document requests 75 and 78 which concern litigation relating to the sale of City's revenue bonds and the use of its general fund. The objection is overruled as to document request 75, since it may relate to the question of whether CEI instigated "sham" litigation against the City, except that if CEI asserts an "attorney-client" privilege, the provisions of Section H below apply. The objection is sustained as to document request 78, since it refers to a pending civil action in the Federal District Court, the records of which are available to City.

47. CEI objects to document requests 77, 79, 80 and 81 relating to the retention of attorneys and budget planning reports, on grounds that such information is privileged, irrelevant or confidential. Document request 77 which seeks correspondence and enclosures between the Union Commerce Bank, Mr. Harkla and Mr. Hengst is overruled, but the objection is sustained as to other documents covered by this request, on the ground that the request is overly broad. Document request 79 was amended by City and the objection was withdrawn to the amended request. Document request 80 which seeks budget reports and planning documents relating to the budget is overruled. Document request 81 relating to weekly reports to Mr. Howley is sustained on the ground that the request is overly broad.

48. Document request 89 relating to the activities of certain civic associations or leagues is sustained, on the ground that the relevance of communications with these organizations has not been demonstrated.

49. CEI objects to document request 91 which calls for information with respect to CEI and CAPCO deposits at all banks utilized by them. The objection is sustained except that CEI shall identify all banks in the Cleveland metropolitan area during the relevant time period in which it maintained

deposits in excess of \$25,000, but CEI shall not be obligated to state the amount or duration of such deposits.

50. CEI objects to document requests 93-112 on the grounds that this material is not relevant and that it would be burdensome to conduct file searches. CEI maintains these requests relate to conduct rather than structure. The objections are overruled except that the Board directs that the search not extend beyond (1) reference to a central index or subindexes; (2) reference to files designated by customer name; (3) reference to customers address list; (4) reference and requests for assistance in producing such documents to appropriate personnel in the CEI sales department.

51. CEI objects to document request 113 which seeks daily diaries and appointment calendars of its officials. City failed to narrow its request to relevant dates and/or subject matter to the satisfaction of the Board and, accordingly, the objection is sustained.

52. CEI objects to production of documents located during the course of its discovery searches which it deems to be privileged or confidential. With respect to claims of confidentiality made by any party to this proceeding, the Board's protective order attached hereto as Appendix A to this Order will apply. With respect to material to which any party may

assert the "attorney-client privilege", the provisions of Section H below will apply. The objection is otherwise overruled.

C. Objections of Applicants - Toledo Edison Company, Pennsylvania Power Company, Ohio Edison Company and Duquesne Light Company to City's Proposed Discovery

53. On August 26, 1974, the City served interrogatories and documentary requests on Toledo Edison, Pennsylvania Power, Ohio Edison and Duquesne Light (the "Applicants")^{2/} On September 9, 1974, Applicants filed objections to these interrogatories and documents requests. As stated above, the Board held hearings on September 16, 1974, at which argument with respect to these objections was presented.

54. The Board makes the following disposition with respect to the general objections raised by Applicants as to City's discovery request:

(a) Applicants object to the definition of the term "Company" insofar as it includes subsidiaries or affiliates of Applicants. This objection is overruled for the reasons stated in Paragraph B.2 (a) of this order.

(b) Applicants object to the definition of "electric utilities" contending that the term is too broad in terms of its

^{2/} The term Applicants for purposes of this section C refers to these four companies since Applicant CEI is the subject of separate interrogatories.

geographic impact and proposed ownership of electric power facilities. The Board, for purposes herein, defines "electric utilities" in the same manner as is stated in Paragraph B.2 (b) of this order.

(c) Applicants object to the definition of "competition". The objection is sustained in part. The definition is revised in the manner set forth in Paragraph B.2 (c) of this order.

(d) Applicants object to the scope of production in terms of applicable time periods covered by the discovery requests and requests to produce documents on file at public agencies. The Board rules that the commencement date for discovery purposes shall be September 1, 1965, for the reasons set forth in Paragraph B.2 (d) of this order.

(e) With respect to the objection relating to production of documents on file with public agencies, the objection is overruled for the reasons stated in Paragraph B.2 (e) of this order.

55. Applicants object to City's joinder in certain interrogatories propounded by the Staff and DOJ. Any decision of the Board with regard to such common interrogatories will apply to all affected parties.

56. Applicants object to document request 1(d) which seeks information on the occupations of Applicants' directors on the

grounds that this information is irrelevant. The Board adopts the ruling made in Paragraph B.4 of this order.

57. Applicants object to document request 2(d) which relates to legislation and constitutional revision affecting the ability of electric utilities to own, finance and construct facilities and to sell electricity. The Board adopts the ruling made in Paragraph B.5 of this order.

58. Applicants object to document request 4(a) which relates to electrical load growth or area growth. The Board adopts the ruling made in Paragraph B.10 of this order.

59. Applicants object to document request 4(c) which seeks documents relating to the acquisition of electric power facilities of municipalities, electric cooperatives or other electric utilities, on the grounds that no showing has been made that such information is relevant to this proceeding. The objection is sustained.

60. Applicants object to document request 5 which seeks correspondence with the Edison Electric Institute and the National Association of Electric Companies, on the grounds that the request is unduly broad and irrelevant to these proceedings. The Board adopts its ruling made in Paragraph B.12 of this order.

61. Applicants object to document request 7(c) which seeks documents relating to NERC, ECAR and NAPSIC, on the basis of relevancy and burden. The Board adopts its ruling made in Paragraph B.14 of this order.

62. Applicants object to document request 8 which relates to the formation of holding companies to become the parent of some or all Applicants, on the ground that this information is irrelevant to the issues of this proceeding. The Board adopts its ruling made in Paragraph B.17 of this order.

63. Applicants object to document request 9 wherein it pertains to unexecuted agreements, for the reason that working drafts may not accurately reflect the policy or position of an Applicant and that only executed documents may be considered to state Applicant's position. The Board adopts its ruling made in Paragraph B.15 of this order.

64. Applicants object to document request 10 wherein it seeks production of any power pooling arrangement under consideration. The Board adopts its ruling made in Paragraph B.21 of this order.

65. Applicants object to document request 11 which relates to future projections of the economic condition of the area served by Applicants, contending that the request is irrelevant. The Board adopts its ruling made in Paragraph B.45 of this order.

66. Applicants object to document request 12 which seeks minutes of meetings of boards of directors and executive committees of Applicants. The Board adopts its ruling made in Paragraph B.21 of this order.

67. Applicants object to document request 13 on the basis of relevancy and maintain that this request constitutes a "fishing expedition". The Board adopts its ruling made in Paragraph B.16 of this order.

68. Applicants object to document request 14(a) as reformulated in a letter dated September 18, 1974, from City's counsel to the Board. The Board adopts its ruling made in Paragraph E.25 of this order.

69. Applicants object to document request 14(b). The Board adopts its ruling made in Paragraph B.26 of this order.

70. Applicants object to document request 14(c), as reformulated in a letter dated September 18, 1974, from City's counsel to the Board, relating to generation and transmission integration studies, and document request 14(d) relating to line extension policy. The Board adopts its ruling made in Paragraph B.27 of this order.

71. Applicants object to document request 14(e) and 14(f) relating to reliability data for generating units and transmission lines. The Board adopts its ruling made in Paragraph B.28 of this order.

72. Applicants object to document request 14(g) seeking documents relating to outage time in 1973. The Board adopts its ruling made in Paragraph B.29 of this order.

73. Applicants object to document request 14(h). The Board adopts its ruling made in Paragraph B.30 of this order.

74. Applicants object to document request 15 which seeks information relating to engineering consultants. The Board adopts its ruling made in Paragraph B.31 of this order.

75. Applicants object to document request 19 which relates to yearly peak flow diagrams through 1985. The Board adopts its ruling made in Paragraph B.32 of this order.

76. Applicants object to document request 21 which seeks press releases. The Board adopts its ruling made in Paragraph B.33 of this order.

77. Applicants object to document request 24 which seeks all documents pertaining to capital and operation and maintenance cost factors, on the grounds that the information is too broad in scope, irrelevant, and that production would impose an undue burden. The Board adopts its ruling made in Paragraph B.34 of this order.

78. Applicants object to document request 26(a) which relates to cost studies of nuclear vs. fossil fuel generation, on the grounds that such information is irrelevant to the issues in this proceeding. The Board adopts its ruling made in Paragraph B.22 of this order.

79. Applicants object to document requests 26(b), 26(c) and 26(d) which relates to planning studies, transmission load-flow studies and discussions with other electric utilities regarding transmission construction. As to request 26(b)-(c), Applicants shall be required to furnish only studies involving CAPCO members and shall not be required to furnish any supporting documents. As to request 26(d), Applicants shall be required to furnish documents involving CAPCO members only.

80. Applicants object to document request 27. The Board adopts its ruling made in Paragraph B.35 of this order.

81. Applicants object to document request 28 which seeks information relating to actual and proposed power purchases. The Board adopts its ruling made in Paragraph B.36 of this order.

82. Applicants object to document request 29 which seeks cost of service studies relating to wheeling. The Board adopts its ruling made in Paragraph B.39 of this order.

83. Applicants object to document request 39 seeking documents relating to the proposed Yankee-Dixie generation and transmission systems. The Board adopts its ruling made in Paragraph B.37 of this order.

D. Objections of Applicants to Joint Request for
Discovery of Staff and DOJ

84. On August 23, 1974, Staff and DOJ filed a joint request for interrogatories and for production of documents by Applicants. On September 9, 1974, Applicants filed Objections thereto. The Board rules with respect to said objections in Paragraphs 85 through 88 below.

85. With respect to the general objections raised by Applicants to the definitions of "company", "electric utility" and "scope of production", the Board's rulings apply with respect thereto as set forth in Paragraph 2 of this order.

86. Applicants object to joint document request 23(c) (15c)^{3/} on the grounds that it is unduly broad and burdensome and that Applicants, other than CEI, are not involved. As to the data sought by DOJ and Staff, the objection is overruled. In view of the September 1, 1965, date set above, the arguments of burden are not persuasive. The data being sought may well be probative of other information relating to the creation or maintenance of a situation inconsistent with the antitrust laws.

87. Applicants object to Interrogatory 2, on the basis that it requests a definition of geographic and product markets and submarkets on which the Applicants intend to rely. It is contended that such request is contrary to Federal Rule 33(b). DOJ replies that Rule 33(b) as cited by Applicant was amended in 1970 to permit, such discovery, contrary to Applicants' assertion. An Interrogatory otherwise proper is not necessarily objectionable merely because an answer thereto involves an opinion or contention that relates to fact, or the application of law

^{3/} Doc. Req. 15c identifies the identically worded request separately addressed to each Applicant other than CEI corresponding to joint request 23c.

to fact. Sargent Welch Scientific Company vs. Ventron Corporation, 59 FRD 500 (No. Dist. Ill., 1973). The Board agrees with the DOJ's position and will require Applicants to set forth their view of the relevant market.

88. Applicants object to Interrogatories Nos. 8 and 9 on the basis that said interrogatories seek legal opinions. The objection is overruled.

E. City's Objections to Applicants' Initial Interrogatories and Request for Documents

89. On August 26, 1974, Applicants filed their initial interrogatories and request for documents. On September 9, 1974, City filed objections thereto. The Board rules with respect to said objections in Paragraph 90 through 139 below.

90. City objects to interrogatory request 1 which seeks a description of certain municipal ordinances, statutes, provisions, rules, regulations, by-laws and other similar directives or instructions promulgated by City. The objection is sustained as to any such materials which are a matter of public record. It is denied as to such materials which are not a matter of public record.

91. City objects to interrogatory request 13, on the ground that the information sought is contained in FPC Form 12 which will be produced in response to interrogatory request 28. The

objection is sustained, on the basis of such representation.

92. City objects to interrogatory request 16 with respect to electric customers ceasing to take service from MELP, on the ground that the information will be produced in response to interrogatory request 12. The objection is sustained, on the basis of such representation.

93. City objects to interrogatory request 18 with respect to MELP's refusal to provide service to industrial or commercial customers, on the ground that such information will be produced in response to interrogatory requests 14 and 15. The objection is sustained, on the basis of such representation.

94. City objects to interrogatory requests 20, 20(a) and 20(b) with regard to MELP electric rates, on the ground that the information will be produced in response to interrogatory request 16. The objection is sustained, on the basis of such representation.

95. City objects to interrogatory request 20(c), on the ground that the information will be produced in response to interrogatory request 19. The objection is sustained, on the basis of such representation.

96. City objects to interrogatory request 21 which seeks the names of persons responsible for initiating or proposing MELP's electrical rates and for approving or disapproving such rates, on the ground of burdensomeness. The objection is overruled.

97. City objects to interrogatory request 24 insofar as it requires information relating to present potential customers, on the ground that such information would afford a competitive advantage to CEI. The objection is overruled.

98. City objects to interrogatory request 27 which seeks a description of adjustment clauses in connection with rate information, on the ground that such information will be produced in response to interrogatory request 16. The objection is sustained, on the basis of such representation.

99. City objects to interrogatory request 31, on the ground that it is unintelligible. Applicants have re-worded the request and the objection is overruled.

100. City objects to interrogatory request 33 which seeks certain studies and analyses, on the ground that such information will be produced in response to interrogatory request 20. The objection is sustained on the basis of such representation.

101. City objects to interrogatory request 34 which seeks information concerning depreciation and amortization expenses, on the ground that such information will be produced in response to interrogatory request 5. The objection is sustained, on the basis of such representation.

102. City objects to interrogatory request 35 which seeks information concerning MELP's outstanding long-term debt, on the ground that such information will be produced in response to interrogatory request 5. The objection is sustained, on the basis of such representation.

103. City objects to interrogatory request 36 which seeks information concerning limitations proposed by the State of Ohio on the amount of indebtedness City may incur for the purpose of financing MELP, on the ground that such request would require City to perform legal research for Applicants. The objection is sustained with respect to information contained in documents that are a matter of public record. The objection is overruled with respect to documents that are not a matter of public record.

104. City objects to interrogatory request 38 which seeks information concerning MELP's electricity costs and sources and costs of meeting energy requirements, on the ground that such

information will be produced pursuant to interrogatory request 24. The objection is sustained, on the basis of such representation.

105. City objects to interrogatory request 42 which seeks MELP's reports relating to outages, on the ground that such information will be produced pursuant to interrogatory requests 36 and 37. The objection is sustained, on the basis of such representation.

106. City objects to interrogatory request 54 which seeks information concerning the safety or reliability of MELP generating units, on the ground that such information will be produced in response to interrogatory request 38. The objection is sustained, on the basis of such representation.

107. City objects to interrogatory request 56 which seeks information concerning MELP's system reliability, on the ground that such information will be produced in response to interrogatory request 39. The objection is sustained, on the basis of such representation.

108. City objects to interrogatory request 57 which seeks information used by MELP in planning for transmission facilities, on the ground that such information will be produced pursuant to interrogatory request 40. The objection is sustained, on the basis of such representation.

109. City objects to interrogatory request 60 which seeks information concerning certain MELP forecasts, on the ground that such information will be produced pursuant to interrogatory request 42. The objection is sustained on the basis of such representation.

110. City objects to interrogatory request 61 which seeks information concerning anticipated MELP increases in production capabilities, investment or growth, on the ground that such information will be produced in response to interrogatory request 43. The objection is sustained, on the basis of such representation.

111. City objects to interrogatory request 64 which seeks information concerning restrictions on MELP's authority, on the ground that such request would require Cleveland to do legal research for Applicants. The objection is sustained with regard to any such information that is a matter of public record. This objection is overruled, as to such information that is not a matter of public record.

112. City objects to interrogatory request 66 which seeks information concerning efforts by MELP to study the feasibility of inter-connections or coordinated generation, on the ground that such information will be produced in response to

interrogatory request 48. The objection is sustained, on the basis of such representation.

113. City objects to interrogatory request 71 which seeks information concerning MELP's plans to finance its participation in Perry, Beaver Valley and Davis-Besse nuclear generating units, on the grounds that such information is not relevant to any issue in this proceeding and if relevant is relevant only with respect to remedies. The objection is overruled.

114. City objects to that portion of interrogatory request 76 which seeks information concerning the reasons for termination of MELP's employees, on the grounds that such information is personal and irrelevant to the issues in this proceeding. The objection is overruled.

115. City objects to interrogatory request 78 which seeks the names of persons holding positions of responsibility in the Division of Power and Light, on the ground that the request is too vague to permit response. The objection is sustained.

116. City objects to that portion of interrogatory request 79 which seeks information concerning the responsibilities of the City Planning Commission, on the ground that such responsibilities

are found in the ordinances and charter of the City of Cleveland. The objection is sustained, on the basis of such representation.

117. City objects to interrogatory request 80 which seeks an explanation of the responsibilities of the Department of Finance, on the ground that such responsibilities are a question of law. The objection is overruled.

118. City objects to interrogatory request 81 which seeks information concerning studies or investigations of Applicants, on the ground that such information is privileged. The objection is overruled.

119. City objects to interrogatory request 82(c) which seeks information concerning the identity of persons or groups rendering financing advice to MELP, on the ground that such information is irrelevant to the issues of this proceeding. The objection is overruled.

120. City objects to interrogatory request 83 which seeks the basis for a contention made by City in its Perry Intervention Petition, on the grounds that it required City to state the facts on which it will rely to prove its case and that it calls for an opinion or legal conclusion. The objection is overruled.

121. City objects to interrogatory request 84 which seeks a definition of certain terms used by City in its Perry Intervention Petition. The objection is overruled.

122. City objects to interrogatory request 85 which seeks the basis for certain allegations made by City in its Perry Intervention Petition concerning the alleged denial of access to participation in nuclear units. The objection is overruled.

123. City objects to interrogatory request 86 which seeks the basis for certain statements made by City in its Perry Intervention Petition. The objection is overruled.

124. City objects to interrogatory request 87 which seeks a definition of certain terms used by City in its Perry Intervention Petition, on the ground that it requires City to define legal terms. The objection is sustained.

125. City objects to interrogatory request 88 which seeks a list of unfair methods of competition employed by CEI. The objection is overruled.

126. City objects to interrogatory request 89 which seeks a list of unfair and deceptive acts and practices engaged in by CEI. The objection is overruled.

127. City objects to interrogatory request 90 which seeks a description of any course of conduct engaged in by CEI or CAPCO which is deemed to be inconsistent with the antitrust laws. The objection is overruled.

128. City objects to interrogatory request 91 which seeks a definition of low cost bulk power supply. The objection is overruled.

129. City objects to interrogatory request 92 which seeks the basis for certain allegations made by City in its Perry Intervention Petition. The objection is overruled.

130. City objects to interrogatory request 93 which seeks a definition of the phrase "concentration of economic power." The objection is overruled.

131. City objects to interrogatory request 94 which seeks an explanation as to certain information to be supplied in response to interrogatory request 90. The objection is overruled.

132. City objects to interrogatory request 96 which seeks an explanation of the reasons why City objects to Applicants' proposed license conditions, on the ground that such information

relates solely to the issue of remedies. The objection is sustained.

133. City objects to document request 1 which seeks copies of city ordinances, statutes, provisions, rules, regulations by-laws and other similar directives or instructions promulgated by City on the ground that such request requires City to perform legal research for Applicants. The objection is sustained with respect to any such documents which are a matter of public record. The objection is overruled as to such documents that are not a matter of public record.

134. City objects to document request 47 which seeks information concerning restrictions on the authority of MELP or any agency or department of City to engage in certain activities, on the ground that such request requires City to perform legal research for Applicants. The objection is sustained as to any such documents which are a matter of public record. The objection is overruled as to any such documents which are not a matter of public record.

135. City objects to document request 49(a)(b)(c) which seeks information concerning City's financing of power plants, on the grounds that such information is irrelevant to this proceeding or, if relevant, it is relevant only with respect to remedies. The objection is overruled.

136. City objects to document request 50 which seeks information concerning MELP's plans for financing participation in Perry, Beaver Valley and Davis-Besse, on the grounds that such information is not relevant to any of the issues in this proceeding or, if relevant, then only with respect to remedies. The objection is overruled.

137. City objects to document request 58 which seeks information concerning investigations by MELP of CEI or CAPCO, on the ground that such information is privileged. The objection is overruled.

138. City objects to document requests 59, 60, 61, 62, 63, 65, 66, and 67 which seek information concerning statements made by City in its Perry Intervention Petition, on the same grounds as have been stated by City in its objections to interrogatory 83. The objection is overruled.

139. City objects to document request 64 which seeks records of testimony of the Director of City's Department of Public Utilities, on the ground that such material should be obtained by Applicants directly from the City Council. The objection is overruled.

F. Objections by DOJ to Applicants' Discovery and Request for a Protective Order

140. DOJ objection I seeks a limitation on the number and location of files to be searched. Applicants agree to the limitations proposed by Justice (Tr. 639).

141. DOJ objection II relates to the time frame for discovery. The time is to be governed by the Board's ruling which established September 1, 1965, as the cut-off date for all discovery except upon good cause shown.

142. DOJ objection III relates to the date by which DOJ shall list detailed allegations of actions "creating or maintaining a situation inconsistent with the antitrust laws." The parties have agreed that an initial response will be made on or before October 31, 1974, with a supplemental response due on or before January 10, 1975, (Tr. 641).

143. DOJ objection IV relates to specification of contentions concerning nexus. DOJ requested leave to file tentative contentions relating to nexus on or before October 31, 1974, and to supplement such contentions by February 20, 1975, as requested by Applicants because additional time may be required for expert analysis of discovered data. Accordingly, the

Board will permit DOJ to supplement its answers on or before February 20, 1975.

144. DOJ objection V seeks to ascertain conditions DOJ may seek to impose on the subject license. The Motion for a Protective Order as to this item was withdrawn (Tr. 645).

145. DOJ objections VI and VII relate to the date on which DOJ must modify its tentative answers to certain interrogatories. As in objection IV, Applicants requested leave to file on or before January 10, 1975, and DOJ proposed a February 20, 1975, filing date. The Board will allow supplemental responses to be filed on or before February 20, 1975, based on the expectation that Applicants will receive tentative answers on October 31, 1974, which will advise Applicants as to the basis of DOJ's concern and enable Applicants to fashion their responses accordingly. However, if, at any time, Applicants deem themselves to be prejudiced by said ruling, they may request additional preparation time.

146. DOJ objection VIII concerns Applicants' request for the DOJ's view of the appropriate access commitment CEI would have to grant to Painesville and Cleveland to be free from anti-competitive effect. DOJ proposes to defer its answer until the completion of discovery. Given the nature of the question

and the impracticality of framing a considered answer prior to the completion of discovery, this request need not be answered at this time.

147. DOJ objection IX relates to previously produced materials. The parties reached agreement with respect to this request and no ruling is required (Tr. 652).

G. Objections of Staff

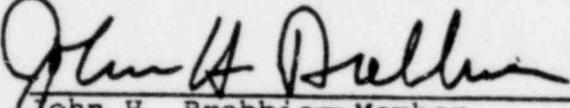
148. The Staff's objections to Applicants' interrogatories and request for documents as stated in section 1 of Staff's September 9 response were withdrawn at the pre-hearing conference. With respect to Staff's objection to certain discovery requests and interrogatories by Applicant and Intervenor City of Cleveland, directed at other parties, the Board has considered Staff's comments in making specific rulings herein. However, while the Board may agree that discovery relating to the retail market should be kept to a minimum, nevertheless as indicated in the issues admitted as matters in controversy herein, some discovery on retail is permissible to the extent it is incorporated within the issues defined by the Board.

H. Documents as to Which
Privilege is Asserted

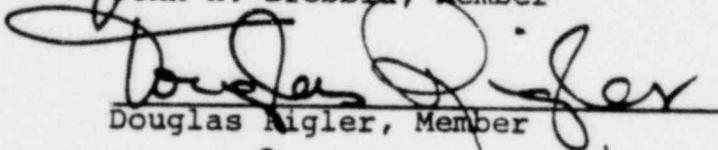
149. In the event any party asserts privilege as a ground for withholding any document otherwise subject to production under the terms of another party's discovery requests (as modified herein by the rulings of the Board), the Board directs the party asserting the privilege to identify each such document as follows: The document shall be identified by date, person(s) preparing the document, recipient(s), subject matter of the document, documentary request number by which the document would be produceable but for the assertion of privilege, and brief statement of the basis for asserting privilege. A copy of privileged document designations should be supplied to the Board.

IT IS SO ORDERED.

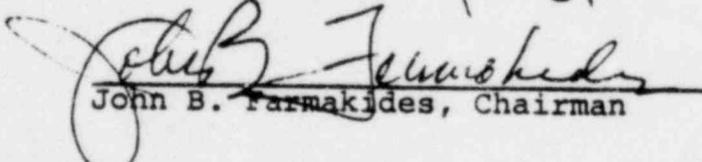
ATOMIC SAFETY AND LICENSING BOARD



John H. Brebbia, Member



Douglas Nigler, Member



John B. Farmakides, Chairman

Issued at Bethesda, Maryland,
this 11th day of October 1974.

APPENDIX A

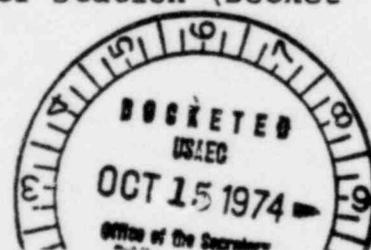
| | | |
|----------------------------------|---|---------------------|
| In the Matter of |) | |
| |) | |
| The Toledo Edison Company and |) | Docket Nos. 50-346A |
| The Cleveland Electric Illumina- |) | 50-440A |
| ting Company |) | 50-441A |
| (Davis-Besse Nuclear Power |) | |
| Station, Unit 1) |) | |
| |) | |
| The Cleveland Electric Illumina- |) | |
| ting Company, <u>et al.</u> |) | |
| (Perry Nuclear Power Plant, |) | |
| Units 1 and 2) |) | |
| |) | |

Order on Objections to Interrogatories and Document Requests

PROTECTIVE ORDER

By Order of the Atomic Safety and Licensing Board in the Matter of Toledo Edison Company and Cleveland Electric Illuminating Company, et al., applications for Davis-Besse Nuclear Power Station (Docket No. 50-346A) and Perry Nuclear Generating Station Units 1 and 2 (Docket Nos. 50-440A; 50-441A), those parties against whom discovery is being made which have bona fide and reasonable basis to consider documents and answers within the scope of the discovery requests to be confidential in nature or to involve confidential business information shall supply such information subject to the terms and conditions of this Order, and the parties receiving such documents and information shall conform to these terms and conditions:

1. All documents produced pursuant to this Discovery Order shall be stamped "Confidential-For use only with respect to AEC proceedings in re Davis-Besse Nuclear Power Station (Docket



No. 50-346A) and Perry Nuclear Generating Station (Docket Nos. 50-440A; 50-441A). These documents shall not be shown to anyone other than attorneys representing one of the parties and other persons under the attorney's supervision according to the terms of the Board's Protective Order of (date)."

2. Documents produced pursuant to this Discovery Order shall not be shown to any employee of any party (including counsel) except upon agreement of the producing party. Neither shall information extracted from protected documents or answers be made available in summary or other form to any employee of any party to these proceedings except upon prior consent of the producing party. With respect to information which of necessity must be verified or commented upon by employees of one of the parties, the terms and conditions of the availability of such information shall be subject to prior clearance with the Board.

3. Attorneys (other than employees) of the parties may supply such information as they deem necessary to economic and technical experts whom they employ in connection with the pending proceedings. Such experts shall be bound by the terms of this Order and shall not transmit any documents or information thus obtained to any other person including other employees of their own respective organizations.

4. Experts other than attorneys for the parties to whom it is contemplated the documents may be shown shall be designated in writing together with a description of their background and expertise to the Board and other parties at least seven days prior to disclosure of any documents or information covered by this Protective Order. Within this seven-day period, any other party may apply to the Board for further relief in the event good cause exists to believe that disclosure beyond the terms of this ruling might be made by the designated expert.

5. Documents and information produced pursuant to this Protective Order shall not be utilized in connection with any other judicial or administrative proceeding except as such documents and information may be properly discovered pursuant to the rules and regulations of such other forums.

6. To the extent that affected parties challenge another party's designation of documents to be protected as improper or overly broad they may apply to the Board with notice to the producing party for a hearing relating to such designations.

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

| | | |
|----------------------------------|---|-----------------------|
| In the Matter of |) | |
| |) | |
| TOLEDO EDISON COMPANY, ET AL. |) | Docket No.(s) 50-346A |
| (CLEVELAND ELECTRIC ILLUMINATING |) | 50-440A |
| COMPANY |) | 50-441A |
| |) | |
| |) | |
| |) | |

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document (s*) upon each person designated on the official service list compiled by the Office of the Secretary of the Commission in this proceeding in accordance with the requirements of Section 2.712 of 10 CFR Part 2 - Rules of Practice, of the Atomic Energy Commission's Rules and Regulations.

Dated at Washington, D. C. this
13 day of Oct, 1977.

Brenda J. Bailey
Office of the Secretary of the Commission

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

In the Matter of

TOLEDO EDISON COMPANY, ET AL.
CLEVELAND ELECTRIC ILLUMINATING
COMPANY

)
)
) Docket No. 50-346A
) 50-440A
) 50-441A

SERVICE LIST

John B. Farmakides, Esq., Chairman
Atomic Safety and Licensing Board
U.S. Atomic Energy Commission
Washington, D.C. 20545

John H. Brebbia, Esq.
Atomic Safety and Licensing Board
Alston, Miller & Gaines
1776 K Street, N.W.
Washington, D.C. 20006

Dr. George R. Hall
Atomic Safety and Licensing Board
U.S. Atomic Energy Commission
Washington, D.C. 20545

Dunkin, Brown, Weinberg &
Pomer
1700 Pennsylvania Avenue, N. W.
Suite 777
Washington, D. C. 20006

Donald H. Hauser, Esq.,
Managing Attorney
Cleveland Electric Illuminating
Company
Public Square
Cleveland, Ohio 44101

Honorable Richard W. McLaren
Assistant Attorney General
Antitrust Division
U.S. Department of Justice
Washington, D.C. 20530

Gerald Charnoff, Esq.
W. B. Reynolds, Esq.
Shaw, Pittman, Potts & Trowbridge
910 17th Street, N.W.
Washington, D.C. 20006

Joseph Rutberg, Esq.
Benjamin H. Vogler, Esq.
Antitrust Counsel
Office of General Counsel
Regulation
U.S. Atomic Energy Commission
Washington, D.C. 20545

Leslie Henry, Esq.
W. Snyder, Esq.
Fuller, Henry, Hodge & Snyder
300 Madison Avenue
Toledo, Ohio 43604

John C. Engle, President
AMP-O, Inc.
Municipal Building
20 High Street
Hamilton, Ohio 45012

George B. Crosby
Director of Utilities
Piqua, Ohio 45350

William M. Lewis, Jr.
W. M. Lewis & Associates
P. O. Box 1385
Portsmouth, Ohio 45662

Robert D. Hart, Esq.
Assistant Law Director
City Hall
Cleveland, Ohio 44114

Director
Ida Rupp Public Library
Port Clinton, Ohio 43452

Perry Public Library
3753 Main Street
Perry, Ohio 44081

Reuben Goldberg, Esq.
Arnold Fieldman, Esq.
1700 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

David C. Hjelmfelt, Esq.
1700 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Honorable Thomas E. Kauper
Assistant Attorney General
Antitrust Division
U.S. Department of Justice
Washington, D.C. 20530

Mr. Abraham Braitman, Chief
Office of Antitrust & Indemnity
Directorate of Licensing
U.S. Atomic Energy Commission
Washington, D.C. 20545

Robert J. Verdisco, Esq.
Antitrust Counsel
Office of General Counsel
U.S. Atomic Energy Commission
Washington, D.C. 20545

Honorable William J. Brown
Attorney General
State of Ohio
Columbus, Ohio 43215

Honorable C. Raymond Marvin
Assistant Attorney General
Chief, Antitrust Section
8 East Long Street
Columbus, Ohio 43215

Honorable Deborah M. Powell
Assistant Attorney General
Antitrust Section
8 East Long Street
Columbus, Ohio 43215

Honorable Christopher R. Schraff
Assistant Attorney General
Environmental Law Section
351 East Broad Street
Columbus, Ohio 43215

Wallace L. Duncan, Esq.
Jon T. Brown, Esq.
Duncan, Brown and Palmer
1700 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Lee C. Howley, Esq.
Vice President and General Counsel
Cleveland Electric Illuminating Co.
P. O. Box 5000
Cleveland, Ohio 44101

John Lansdale, Jr., Esq.
Cox, Langford & Brown
21 Dupont Circle, N.W.
Washington, D.C. 20036

Steven M. Charno, Esq.
Antitrust Division
Department of Justice
Washington, D.C. 20530