

NRC Central

Aug 29, 1975

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
 )  
 THE TOLEDO EDISON COMPANY and )  
 THE CLEVELAND ELECTRIC ILLUMINATING )  
 COMPANY )  
 (Davis-Besse Nuclear Power Station, )  
 Units 1, 2 & 3) )  
 )  
 THE CLEVELAND ELECTRIC ILLUMINATING )  
 COMPANY, ET AL. )  
 (Perry Nuclear Power Plant, )  
 Units 1 & 2) )

NRC Docket Nos. 50-346A  
50-500A  
50-501A

NRC Docket Nos. 50-440A  
50-441A

MINUTES OF CONFERENCE CALL WITH  
BOARD CHAIRMAN HELD AUGUST 20, 1975

On Wednesday, August 20th the Chairman of the Atomic Safety and Licensing Board initiated a conference call to discuss possible modifications to the hearing schedule in light of the Motion of the Department of Justice For Reconsideration Of Changes In Procedural Dates, which Motion was filed on July 25, 1975. Participating in the call were Licensing Board Chairman Douglas V. Rigler, William Bradford Reynolds, Counsel for Applicants; Roy P. Lessy, Jr., Counsel for Nuclear Regulatory Commission Staff; Davis C. Hjelmfelt, Counsel for the City of Cleveland and Melvin G. Berger, Counsel for the Department of Justice. Mr. Lessy was designated to act as Secretary.

The Chairman initially inquired of the Department of Justice as to whether the Department still desired additional time in light of the progress made towards completion of discovery in the consolidated proceeding.

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Mr. Berger replied that the Department had substantially concluded the review of all documents including those of Davis-Besse 2 and 3 (which had been recently consolidated with the Perry and Davis-Besse I proceeding) but that the reproduction of the documents had not been completed. Mr. Berger requested on behalf of the Department that the Chairman grant the Motion For Reconsideration Of Procedural Dates, and that in so doing this would greatly alleviate the burden on the Department and the other parties. The Chairman in response indicated that it would not be the desire of the Board to put any of the parties in an intolerable position as regards the procedural dates, and then asked Mr. Berger whether the date that was causing the most problem was the August 29th date for the filing of ultimate issues. Mr. Berger indicated that although some additional time was needed regarding the balance of the schedule, that the most pressing date and the one that created the greatest burden was the August 29th date. Mr. Berger indicated that if that date could be moved to September 5th pursuant to the Department's request it would greatly help things. Mr. Rigler then indicated that if the primary relief that was being requested was a slip in the ultimate issues date from August 29th to September 5th, this could be accomplished without effect on the October 30th hearing. Thus, Applicants could, at their option respond to the delineation of issues by other parties on September 12th, and the prehearing conference to consider motions to curtail or eliminate issues would also be adjusted from September 12th to September 18th. In addition, the Chairman indicated that all parties other than Applicants would be required to file direct written testimony of expert witnesses on September 26th, but that no adjustment

would be necessary for the start of the hearing on October 30th.

Mr. Lessy then indicated that the September 26th date for the filing of testimony would be related to the prehearing conference. He stated that if as a result of the prehearing conference there were new issues that were required to be addressed that this would only leave 8 days in which to file prepared testimony which might be too short. Mr. Rigler responded by saying that the purpose of the prehearing conference on the 18th would relate to curtailment or elimination of issues and not the addition of anything new, therefore, there should not be any problem with respect to the filing of testimony. The Chairmen indicated that the rest of the schedule could remain intact with applicants filing their direct written testimony of expert witnesses on October 3rd, all parties filing pre-trial briefs on October 15th with hearings to begin on October 30th. Mr. Lessy then indicated that October 30th was a Thursday and that that might not be the best day to begin the antitrust hearing. Mr. Rigler indicated that he was aware of that but that by keeping the schedule as it was it gave the Board approximately four days of slippage if any other problems arose prior to that date.

The Chairman then inquired as to what the position of the parties was on changing the ultimate issue filing date by all parties other than Applicants to September 5th with Applicants response due September 12th and a prehearing conference to consider motions to curtail or eliminate issues on September 18th, but holding fast with the October 30 hearing date. Mr. Reynolds stated that that presented no problem for Applicants.

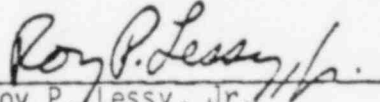
Mr. Hjelmfelt indicated that the City of Cleveland had no objection to the schedule. Mr. Berger indicated that Justice could live with the schedule. Mr. Lessy indicated that Staff took no position with respect to the proposed change in schedule. Based on that consensus the Chairman indicated that the Board would issue an Order within the next one or two days based on the motion and the conference call.

Mr. Berger and Mr. Lessy then raised the question with the Board that the Department of Justice and the Staff respectively had outstanding pre-trial motions in front of the Licensing Board. Mr. Rigler indicated that these matters were under consideration and a decision with respect to the two motions would be forthcoming.

Mr. Hjelmfelt then asked for a clarification of the requirement that evidence be summarized in the filing of ultimate issues. In response the Chairman indicated that the Board's expectations were contained in Prehearing Conference Order No. 4 and that the transcript of the April 21st prehearing conference would also be helpful in this regard. However, the Chairman indicated that another conference call could be established if any one of the parties desired clarification with respect to that after reviewing the orders and the transcripts. Mr. Reynolds indicated at that time that he was on vacation and that he would not be back at his office where these materials were until Monday, August 25, 1975 and accordingly that it was his desire that any conference call with respect to ultimate issues be held at that time or thereafter.

Whereupon the conference call was concluded.

Respectfully submitted,

  
Roy P. Lessy, Jr.  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 29th day of August 1975.

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CERTIFICATE OF SERVICE

I hereby certify that copies of MINUTES OF CONFERENCE CALL WITH BOARD CHAIRMAN HELD AUGUST 20, 1975, dated August 29, 1975, in the captioned matter, have been served upon the following by deposit in the United States mail, first class or air mail, this 29th day of August 1975:

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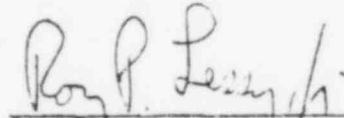
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