

July 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)	Docket No. 50-346A
Company)	
(Davis-Besse Nuclear Power Station,)	
Unit 1))	
)	
The Cleveland Electric Illuminating)	Docket Nos. 50-440A
Company, et al.)	and 50-441A
(Perry Nuclear Power Plant,)	
Units 1 and 2))	

MINUTES OF CONFERENCE CALL
WITH BOARD CHAIRMAN ON JULY 14, 1975

On Monday, July 14, 1975, the Department of Justice initiated a conference call at 2:00 p.m. concerning the Motion of the City of Cleveland, Ohio, to Change Procedural Dates. This conference call was a follow-up to the conference call of July 11, 1975. Participants in the call were: Licensing Board Chairman Douglas V. Rigler; Mr. Wm. Bradford Reynolds, counsel for Applicants; Mr. Roy P. Lessy, Jr., counsel for Nuclear Regulatory Commission Staff; Mr. David C. Hjelmfelt, counsel for the City of Cleveland; Mr. Richard M. Firestone, counsel for the State of Ohio, Mr. Jon T. Brown, counsel for AMP-Ohio; and Mr. Melvin G. Berger, counsel for Department of Justice.

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It was first determined that all parties had received the Motion of the City of Cleveland, Ohio, to Change Procedural Dates and the suggested schedule contained therein.

Mr. Berger stated that he believed that the time schedule set forth in Prehearing Conference Order No. 4 should be adhered to and that all dates stated therein should be slipped by one month since the conclusion of depositions had slipped by one month. Mr. Berger also requested clarification from the City of Cleveland with respect to the August 29 date listed in the City's Motion because it was unclear to him whether the City was requiring all parties other than Applicants merely to state the general nature of the case or to give a detailed explanation of the issues and facts.

Mr. Hjelmfelt responded by stating that the requirement listed for August 29 was deliberately made ambiguous for the City does not know what scope that statement of issues will have. He suggested that a conference call or prehearing conference might be held to clarify this question.

Mr. Reynolds stated that Applicants did not want to go beyond the August 29 date to receive a statement of issues. He also indicated that he believed that the statement due on August 29 should contain a statement of the relief being requested.

Mr. Rigler asked Mr. Reynolds if he agreed with the City schedule. Mr. Reynolds stated that it would be all right if he received what was requested on August 29th but did not comment on the remainder of the schedule.

Mr. Lessy noted that Prehearing Conference Order No. 4 did not contemplate a statement of relief to be requested by the parties.

Mr. Reynolds stated that the Prehearing Conference Order No. 4 contemplated one hearing to cover both a situation inconsistent as well as remedy and that he should be entitled to a statement of issues as well as remedy.

Mr. Rigler noted that there was a discussion during a prehearing conference on what was to be contained in the statement of issues and that he did not remember precisely what was said but suggested that the parties review the transcript. He then asked again if Applicants agreed with the City schedule.

Mr. Reynolds said he had no problem with the remainder of the schedule except that the originally scheduled three-week period between the filing of pretrial brief and the start of the hearing was cut to two weeks. He suggested that a restoration of this time period would move the hearing to November 6 or 7.

Mr. Berger noted that he agreed with Mr. Reynolds that the original time periods should be maintained but that the same time periods should be kept throughout all the steps listed in Prehearing Conference Order No. 4.

Mr. Lessy stated that the schedule of Prehearing Conference Order No. 4 should be kept but that Staff did not oppose nor support the City's suggested schedule. He also noted that the depositions had a broad scope.

Mr. Reynolds again noted the shortening up by one week of the period between the filing of pretrial briefs and the start of the hearing.

Mr. Berger noted that his problem was primarily with the first time period in the schedule, the time between the end of depositions and the filing of the statement of issues. He noted that only four weeks were now being allowed, while six weeks were allowed in Prehearing Conference Order No. 4. He also noted that it would be difficult to obtain transcripts from depositions conducted during the end of July and fully digest them to allow their use in the statement of issues since only about four weeks were allowed between the two dates. He further stated that the specificity required in the statement of issues would probably determine whether four weeks was enough time to complete the statement.

Mr. Lessy suggested that it might be best if the Department of Justice not be made to cite issues or evidence in the depositions since they could meet the deadline under those circumstances.

Mr. Reynolds objected stating that Applicants wanted all the issues spelled out for them on August 29 and did not want additional issues brought up later.

Mr. Lessy suggested that the parties be allowed to amend the statement of issues once between August 29 and September 12, the date set by the City schedule to consider motions to curtail or eliminate issues.

Mr. Reynolds stated that he would not be satisfied with an amendment of issues after Applicants' response thereto due September 5 was due.

Mr. Rigler asked whether the possibility of daily copy had been explored as a means of getting the deposition transcripts in the hands of the Department as soon as possible.

Mr. Lessy noted that daily copy costs about \$5 per page, while regular copy costs about \$1 per page.

Mr. Rigler suggested that daily copy during the last ten days to two weeks might solve the problem.

Mr. Reynolds stated that he did not object to the October 30 hearing date.

Mr. Rigler noted that the Licensing Board would act in the near future on consolidation of Davis-Besse, Units 2 and 3, with the Perry, Units 1 and 2, and the Davis-Besse, Unit 1, proceeding. He urged that any party wishing to submit anything related to consolidation do it soon.

Mr. Lessy inquired about the parties' positions on new discovery in Davis-Besse, Units 2 and 3.

Mr. Reynolds stated that Applicants would file their discovery requests in this matter very soon.

Mr. Rigler asked whether these requests would delay the schedule if the proceedings were consolidated.

Mr. Reynolds stated that he did not expect any delay to result.

Mr. Rigler stated that he would consult with the other Board members on a new schedule and that he would be available by telephone if needed. He stated that with respect to Mr. Reynolds' statement about the statement of issues requiring a statement of the relief to be requested, Prehearing Conference Order No. 4 governs. Thus, the listing of issues is tied to Applicants' interrogatories and if the interrogatories called for a statement of relief, Mr. Reynolds would be entitled to such a statement.

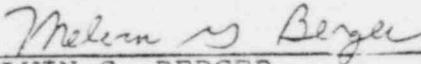
Mr. Rigler again reminded all that if a prehearing conference or additional arguments on consolidation were desired, such action should be taken soon.

Mr. Berger asked if Mr. Rigler wanted all parties to respond in writing to the City's Motion.

Mr. Rigler said that he had the position of all the parties and that he did not need any additional information.

Whereupon, at 2:40 p.m., the conference call was concluded.

Respectfully submitted,


MELVIN G. BERGER
Attorney, Department of Justice
Washington, D.C. 20530

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CERTIFICATE OF SERVICE

I hereby certify that copies of MINUTES OF CONFERENCE CALL WITH BOARD CHAIRMAN ON JULY 14, 1975 have been served upon all of the parties listed on the attachment hereto by deposit in the United States mail, first class or airmail, this 29th day of July 1975.

Melvin G. Berger

Melvin G. Berger
Attorney, Antitrust Division
Department of Justice

ATTACHMENT

Douglas Rigler, Esquire
Chairman
Atomic Safety and Licensing
Board
Foley, Lardner, Hollabaugh
& Jacobs
815 Connecticut Ave., N.W.
Washington, D.C. 20006

John H. Brebbia, Esquire
Atomic Safety and Licensing
Board
Alston, Miller & Gaines
1800 M Street, N.W.
Washington, D.C. 20036

John M. Frysiak, Esquire
Atomic Safety and Licensing
Board Panel
Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing
Board Panel
Nuclear Regulatory Commission
Washington, D.C. 20555

Frank W. Karas
Chief, Public Proceedings
Staff
Office of the Secretary
Nuclear Regulatory Commission
Washington, D.C. 20555

Abraham Braitman
Office of Antitrust and
Indemnity
Nuclear Regulatory Commission
Washington, D.C. 20555

Herbert R. Whitting, Esquire
Robert D. Hart, Esquire
Law Department
City Hall
Cleveland, Ohio 44114

Reuben Goldberg, Esquire
David C. Hjelmfelt, Esquire
1700 Pennsylvania Avenue, N.W.
Suite 550
Washington, D.C. 20006

Andrew Popper, Esquire
Benjamin H. Vogler, Esquire
Roy P. Lessy, Jr., Esquire
Office of the General Counsel
Nuclear Regulatory Commission
Washington, D.C. 20555

Gerald Charnoff, Esquire
William Bradford Reynolds, Esquire
Shaw, Pittman, Potts & Trowbridge
910 Seventeenth Street, N.W.
Washington, D.C. 20006

Lee C. Howley, Esquire
Vice President & General Counsel
The Cleveland Electric
Illuminating Company
Post Office Box 5000
Cleveland, Ohio 44101

Donald H. Hauser, Esquire
Corporate Solicitor
The Cleveland Electric
Illuminating Company
Post Office Box 5000
Cleveland, Ohio 44101

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

Chris Schraff, Esquire
Office of Attorney General
State of Ohio
State House
Columbus, Ohio 43215

Karen H. Adkins, Esquire
Assistant Attorney General
Antitrust Section
30 East Broad Street
15th Floor
Columbus, Ohio 43215

Leslie Henry, Esquire
Fuller, Henry, Hodge
& Snyder
300 Madison Avenue
Toledo, Ohio 43604

Thomas A. Kayuha, Esquire
Ohio Edison Company
47 North Main Street
Akron, Ohio 44308

David M. Olds, Esquire
Reed, Smith, Shaw & McClay
747 Union Trust Building
Pittsburgh, Pennsylvania 15219

Mr. Raymond Kudukis
Director of Utilities
City of Cleveland
1201 Lakeside Avenue
Cleveland, Ohio 44114

Wallace L. Duncan, Esquire
Jon T. Brown, Esquire
Duncan, Brown, Weinberg
& Palmer
1700 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Edward A. Matto, Esquire
Assistant Attorney General
Chief, Antitrust Section
30 East Broad Street
15th Floor
Columbus, Ohio 43215

Richard M. Firestone
Assistant Attorney General
Antitrust Section
30 East Broad Street
15th Floor
Columbus, Ohio 43215

Victor F. Greenslade, Jr., Esquire
Principal Staff Counsel
The Cleveland Electric
Illuminating Company
Post Office Box 5000
Cleveland, Ohio 44101