

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD



In the Matter of

THE TOLEDO EDISON COMPANY and
THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY
(Davis-Besse Nuclear Power Station,
Units 1, 2 & 3)

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

THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, ET AL.
(Perry Nuclear Power Plant,
Units 1 & 2)

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

NRC STAFF'S ANSWER TO THE MOTION OF THE CITY
OF CLEVELAND, OHIO FOR AN ENLARGEMENT OF TIME
FOR FILING ITS BRIEF IN SUPPORT OF EXCEPTIONS

The Special Atomic Safety and Licensing Board ("Special Board") was constituted to rule on a motion by City of Cleveland ("Cleveland") to suspend the law firm of Squire, Sanders & Dempsey ("SS&D") from further participation in this proceeding as counsel for The Cleveland Electric Illuminating Company ("CEI") or any other Applicant. On November 5, 1976, the Special Board issued a decision ^{1/} granting SS&D's motion to dismiss the pending disqualification proceeding on the ground that the doctrine of collateral estoppel required dismissal as a matter of law. Cleveland filed a Notice of Appeal and Exceptions on November 12, 1976, and on November 16, 1976, filed a motion for an enlargement of time until January 28, 1977, for filing the brief in support of those exceptions.

^{1/} Decision of Special Board Established for 10 C.F.R. §2.713 Proceeding, November 5, 1976.

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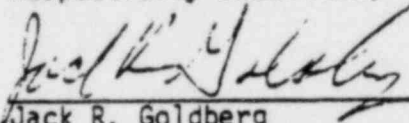
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The Staff does not object to Cleveland's motion for extending the time within which Cleveland must file its brief in support of its exceptions to the Special Board's decision. The Memorandum of Understanding between Cleveland and CEI, to which the City referred in its motion, provides that all litigation between Cleveland and CEI will be terminated upon consummation of the sale of Cleveland's Municipal Electric Light Plant to CEI pursuant to the terms of the Memorandum. Since the Memorandum of Understanding also provides that the sale shall be closed on or before January 10, 1977 (unless both parties agree to an extension), it appears reasonable to the Staff to grant Cleveland's motion.

Respectfully submitted,


Jack R. Goldberg
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 23rd day of November 1976.

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COMPANY)	50-501A
(Davis-Besse Nuclear Power Station,)	
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THE CLEVELAND ELECTRIC ILLUMINATING)	NRC Docket Nos. 50-440A
COMPANY, ET AL.)	50-441A
(Perry Nuclear Power Plant,)	
Units 1 & 2))	

CERTIFICATE OF SERVICE

I hereby certify that copies of NRC STAFF'S ANSWER TO THE MOTION OF THE CITY OF CLEVELAND, OHIO FOR AN ENLARGEMENT OF TIME FOR FILING ITS BRIEF IN SUPPORT OF EXCEPTIONS in the above captioned proceeding have been served on the following by deposit in the United States mail, first class or air mail, or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 23rd day of November 1976:

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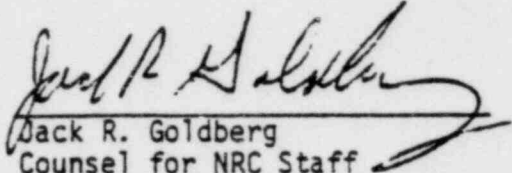
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