

DOCKET NUMBER  
PRDD. & UTIL. EAC. 50-346

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

In the Matter of )  
 )  
THE TOLEDO EDISON COMPANY )  
and )  
THE CLEVELAND ELECTRIC )  
ILLUMINATING COMPANY )  
 )  
(Davis-Besse Nuclear Power )  
Station) )

Docket No. 50-346

ORDER

During the hearing session of 25 January 1971, Intervenor Living in a Finer Environment, Irwin I. Oster, and William E. Reany moved (Transcript 1026) for an order requiring Dr. Walter Harrison Jordan and Dr. Charles Ernest Winters to disqualify themselves as members of the Atomic Safety and Licensing Board which had been designated to hear this matter pursuant to the Notice of Hearing issued by the Commission on 30 October 1970. No affidavit accompanied the filing of the motion. Inasmuch as 10 CFR 2.704(c) of the Commission's regulations concerning disqualification states in part, "The motion shall be supported by affidavits setting forth the alleged grounds for disqualification. . .", the Board gave the Intervenor the opportunity to provide an affidavit. Subsequently on 27 January

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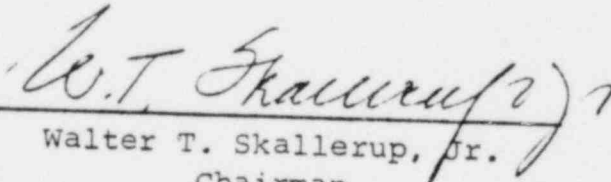
1971 the Intervenor proffered such an affidavit. (T. 1166.)

Comment regarding the motion was made in open hearing on 25 and 27 January 1971, by AEC Staff (T. 1029-1034, and 1169-1170), by the Applicant (T. 1169), and by Dr. Jordan and Dr. Winters (T. 1171).

The Board after having considered the motion, the memorandum accompanying the motion, the affidavit in support of the motion, and the arguments thereon, denied the Intervenor's motion (T. 1171).

Accordingly, the motion is hereby being referred to the Commission for appropriate action in accordance with the provisions of 10 CFR 2.704(c) of Commission regulations.

Attached are copies of the Intervenor's motion, the memorandum accompanying the motion, and the affidavit submitted in support of the motion.

  
Walter T. Skallerup, Jr.  
Chairman

Dated: February 3, 1971