

DOCKET NUMBER
PROD. & UTIL. EAC 50-346

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

BEFORE THE COMMISSION



In the Matter of

THE TOLEDO EDISON COMPANY
THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY

(Davis-Besse Nuclear Power
Station)

Docket No. 50-346

4-25-72

AEC REGULATORY STAFF ANSWER TO APPLICANTS' MOTION TO AMEND
MEMORANDUM AND ORDER AND NOTICE OF HEARING

On April 21, 1972, applicants filed a motion requesting the Commission to amend its Memorandum and Order and Notice of Hearing so as to require a factual demonstration that Coalition and LIFE are in existence, that there is adequate authority to represent their purported membership, that they have actually suffered an injury, and a particularization of the matters they seek to controvert in the forthcoming proceeding.

The motion does raise a question as to the continued existence of at least one of the intervenor organizations (LIFE) and the authority of the other (Coalition) to represent its constituent organizations in this proceeding. Since the record should be clear on these matters, the staff believes that it would be useful for the record of this proceeding to contain additional information in these areas. However,

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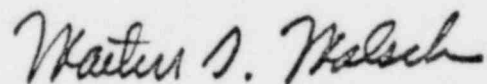
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we believe that this matter could best be handled by the presiding Atomic Safety and Licensing Board (Board).

We believe that any inquiry into this matter by the Board should end once additional information as to continued existence and rerepresentation is submitted, and we do not believe that it would be appropriate under the circumstances of this case to reconsider at this time prior rulings by the Atomic Safety and Licensing Board at the construction permit proceeding on the basic legal question of standing to intervene. In addition, we believe that the question of disclosure by intervenors of the matters they wish to controvert is a prehearing matter best left to the presiding Board to decide.

In conclusion, the staff does not believe that any amendment to the Commission's Memorandum and Order and Notice of Hearing is necessary at this time.

Respectfully submitted,



Martin G. Malsch
Counsel for AEC Regulatory Staff

Dated at Bethesda, Maryland,
this 26th day of April, 1972.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "AEC Regulatory Staff Answer to Applicants' Motion to Amend Memorandum and Order and Notice of Hearing," dated April 26, 1972, in the captioned matter, have been served on the following by deposit in the United States mail, first class or air mail, this 26th day of April, 1972:

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