



UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of: )  
THE TOLEDO EDISON COMPANY )  
and ) Docket No. 50-346  
THE CLEVELAND ELECTRIC )  
ILLUMINATING COMPANY )  
(Davis-Besse Nuclear Power Station) )

EXCEPTIONS TO THE INITIAL DECISION

Intervenor Coalition For Safe Nuclear Power hereby submits the following exceptions to the initial decision of the Atomic Safety and Licensing Board rendered on May 19, 1972:

1. The Board erred in excluding testimony from any of the parties upon the issue of environmental harm from plant operation. By foreclosing this evidence, the Board foreclosed inquiry into the major alternative of plant abandonment following NEPA review and the influence that continuing financial expenditures could have upon the adoption of the alternative of abandonment.

(See pp. 6-10 of Initial Decision) (Tr. 447-448)

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2. The participation of the Regulatory Staff as a party to the suspension hearing violated the intervenors' rights to a fair adversary hearing as is inherent in the due process clause of the Fifth Amendment to the United States Constitution.

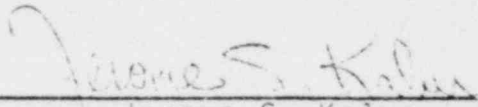
(Tr. 12)

3. Conclusion four in Section F of the Initial Decision is unsupported by substantial, reliable and probative evidence, since the Board eliminated any evidence as to the "outcome of NEPA" review and the "irretrievable commitments" effect upon that review.

(p. 44 of Initial Decision)

4. Intervenor Coalition for Safe Nuclear Power was denied a fair hearing because of the conduct of the proceedings as follows:
  - (1) intervenor was not allowed to cross-examine each witness as direct examination was completed, (2) the transcript reflects numerous occasions where the permittees' witnesses denied that they had prepared some portion of the written testimony they had previously sworn was theirs (all motions to strike such testimony were overruled), and (3) the Federal Power Commission, through

Mr. A. L. Tolston and Federal Power Commission counsel were allowed to appear and act as a party to the proceedings. In essence, the proceedings corresponded more clearly to a town meeting than an adjudicatory proceeding.  
(Tr. 375-414)

  
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Jerome S. Kalur  
Counsel for Intervenors

CERTIFICATE OF SERVICE

I hereby certify that copies of the Exceptions to the Initial Decision were served on the following, by deposit in the U. S. Mail on May 23, 1972:


Secretary (20)  
U. S. Atomic Energy Commission  
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Attn: Chief, Public Proceedings  
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