



DOCKET NUMBER
PROD. & UTIL. FAC. 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

NOTICE OF HEARING PURSUANT TO 10 CFR PART 50,
APPENDIX D, SECTION B

The Toledo Edison Company, and The Cleveland Electric Illuminating Company (the licensees) are the holders of Construction Permit No. CPPR-80 (the Construction Permit), issued by the Atomic Energy Commission on March 24, 1971. The Construction Permit authorizes the licensees to construct a pressurized water nuclear reactor, designated as the Davis-Besse Nuclear Power Station, at the licensees' site on the southwestern shore of Lake Erie in Ottawa County, Ohio. The reactor is designed for initial operation at approximately 2633 megawatts (thermal).

The facility is subject to the provisions of Section B of Appendix D to 10 CFR Part 50, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits or operating licenses were issued in the period January 1, 1970 - September 9, 1971. Notice is hereby given, pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in 10 CFR Part 2, "Rules of Practice," and Appendix D to 10 CFR Part 50, "Implementation of the National Environmental Policy Act of 1969," that a hearing will be held in the captioned proceeding by an Atomic Safety and

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Licensing Board (Board) at a time and place to be fixed by subsequent order of the Board to consider and make determinations on the matters set forth below:

1. In the event that this proceeding is not a contested proceeding as defined by 10 CFR §2.4(n) of the Commission's "Rules of Practice," the Board will without conducting a de novo evaluation of the application determine whether the environmental review conducted by the Commission's regulatory staff pursuant to Appendix D of 10 CFR Part 50 has been adequate.

2. In the event that this proceeding is a contested proceeding, the Board will decide any matters in controversy among the parties within the scope of Appendix D to 10 CFR Part 50, with regard to whether, in accordance with the requirements of Appendix D to 10 CFR Part 50, the construction permit should be continued, modified, terminated or appropriately conditioned to protect environmental values.

3. Regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, (a) determine whether the requirements of section 102(2)(C) and (D) of NEPA and Appendix D to 10 CFR Part 50 of the Commission's regulations have been complied with in this proceeding; (b) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view toward determining the appropriate action to be taken; and (c) determine, after weighing the environmental, economic, technical and other benefits against environmental costs and

considering available alternatives, whether the construction permit should be continued, modified, terminated or appropriately conditioned to protect environmental values.

The Board will be designated by the Atomic Energy Commission. Notice as to its membership will be published in the FEDERAL REGISTER. Within thirty (30) days from the date of publication of this present notice in the FEDERAL REGISTER, any person whose interest may be affected by this proceeding may file a petition for leave to intervene with respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice" in 10 CFR Part 2.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR §2.714. As required by 10 CFR §2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors:

- (1) the nature of the petitioner's right under the Act to be made a party to the proceeding;
- (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and
- (3) the possible effect

of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR §2.714(a).

Any person who does not wish to, or is not qualified to become a party to this proceeding concerning continuation, modification, termination, or conditioning the construction permit may request permission to make a limited appearance pursuant to the provisions of 10 CFR §2.715.

A person making a limited appearance may only make an oral or written statement on the record, and may not participate in the proceeding in any other way. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above.

An answer to this notice, pursuant to the provisions of 10 CFR §2.705, must be filed by the licensees not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

In the event that this proceeding is not contested, the Board will convene a prehearing conference of the parties within sixty (60) days after

this Notice of Hearing or such other time as may be appropriate, at a time and place to be set by the Board. It will also set the schedule for the evidentiary hearing. Notice of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

In the event that this proceeding becomes a contested proceeding, the Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within sixty (60) days from the date of publication of this notice in the FEDERAL REGISTER, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR §2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any special prehearing conference and within sixty (60) days after discovery has been completed, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR §2.752.

Notices of the dates and places of the special prehearing conference, the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

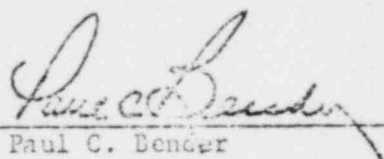
For further details pertinent to the matters under consideration, see the licensees' Environmental Report dated August 3, 1970, as supplemented July 6, 1972, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday and at the Ida Rupp

Public Library, Port Clinton, Ohio between the hours of 10:00 a.m. to 8:00 p.m. Monday through Saturday. As they become available, the following documents also will be available at the above locations:

(1) the Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; and (2) the Commission's final detailed statement on environmental considerations. Copies of item (2), when available, may be obtained by request to Deputy Director for Reactor Projects, Directorate of Licensing, U. S. Atomic Energy Commission, Washington, D.C. 20545.

With respect to this proceeding, pursuant to 10 CFR §2.785 an Atomic Safety and Licensing Appeal Board will exercise the authority and the review function which would otherwise be exercised and performed by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER.

UNITED STATES ATOMIC ENERGY COMMISSION

By 
Paul C. Bender
Secretary of the Commission

Dated at Germantown, Maryland,
this 19th day of December, 1972.