

50-346

OCT 29 1970

Chairman Seaborg
Commissioner Ramey
Commissioner Johnson
Commissioner Thompson
Commissioner Larson

NOTICE OF HEARING ON APPLICATION OF TOLEDO EDISON COMPANY AND
CLEVELAND ELECTRIC ILLUMINATING COMPANY FOR CONSTRUCTION PERMIT
FOR DAVIS-BESSE NUCLEAR POWER STATION

I plan to have a notice of hearing published in the Federal Register not later than November 7, 1970, scheduling a public hearing on the application of The Toledo Edison Company and The Cleveland Electric Illuminating Company for a construction permit for the Davis-Besse Nuclear Power Station in the Ohio National Guard Armory, 135 West Perry Street, Port Clinton, Ohio, on December 8, 1970. The prehearing conference would be scheduled for November 23, 1970, at the same location. This schedule has been approved by the Office of the Atomic Safety and Licensing Board Panel.

The Commission was informed on October 22, 1970 (memorandum from Bertram H. Schur, Acting General Counsel, Subject: Sierra Club et al. v. Walter J. Hickel, Peter A. Morris, et al., Civil Action No. 867-371, USDC, W.D., Ohio; Davis-Besse Construction Permit Application), that a petition has been filed seeking a court order revoking the "preconstruction permit exemption" for the Davis-Besse plant. Also sought is a court order prohibiting the Commission from holding the construction permit hearing for this plant.

The petitioner did not request a preliminary injunction. Accordingly, neither order can issue until after a hearing. The court procedures may take several months to complete.

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The Justice Department informally advises* (a) there is no legal reason why the Commission should not proceed at this time with the notice of hearing as well as the hearing itself, and (b) It should be anticipated, however, that the petitioner, upon publication of the notice of hearing, might immediately move to amend his petition to seek a preliminary injunction restraining the holding of the hearing.

(Signed) HLP

Harold L. Price
Director of Regulation

cc. General Manager (2)
General Counsel (2)
Secretary (2)
Chairman, ASLSP (2)

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Harold L. Price
 Director of Regulation

cc: General Manager (2)
 General Counsel (2)
 Secretary of the Commission (2)
 Algie A. Wells (2)

OFFICE ▶	OGC	DRL	DR		
SURNAME ▶	PW: <i>W</i> TF Engelhardt	<i>M</i> PAMorris	HLPrice		
DATE ▶	10-22-70	10-23-70	10- -70		