

May 9, 1975

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
THE TOLEDO EDISON COMPANY and)	
THE CLEVELAND ELECTRIC ILLUMINATING)	
COMPANY)	
(Davis-Besse Nuclear Power Station,)	Docket Nos. 50-346A
Unit 1))	50-440A
)	50-441A
THE CLEVELAND ELECTRIC ILLUMINATING)	
COMPANY, ET AL.,)	
(Perry Nuclear Power Plant,)	
Units 1 and 2))	

APPLICATION FOR ISSUANCE OF SUBPOENA

1. Pursuant to 10 C.F.R. Section 2.720a, Applicants hereby request the Licensing Board to issue a subpoena to

Raymond Kudukis, Director
Department of Public Utilities
City of Cleveland
1201 Lakeside Avenue
Cleveland, Ohio 44114

requiring his attendance and testimony at the continuation of his deposition to be conducted at the offices of The Cleveland Electric Illuminating Company, 55 Public Square, Cleveland, Ohio, on May 13, 1975, at 9:00 A.M., for the purposes of discovery in the above-captioned matter, and requiring him to remain in attendance until released by the Board.

2. On April 30, 1975, Applicants commenced taking

8002140 870 M

the deposition of Director Kudukis pursuant to the Notice of Depositions filed on April 7, 1975. Following the morning interrogation of Mr. Kudukis, it became apparent to Applicants' counsel that it would not be possible to complete Director Kudukis' deposition by the end of the day. A discussion was held among counsel present at the deposition as to whether the deposition would continue late into the evening or adjourn at 5:00 P.M., to be continued at a later mutually agreed upon date. Agreement was reached that the latter course would be followed and that Director Kudukis would return for the continuation of his deposition on another day. A date of May 13, 1975 was tentatively agreed to, subject to Director Kudukis' availability.

3. During the course of the depositions taken on May 7, 1975, counsel for the City of Cleveland advised Applicants that Director Kudukis would not be made available on May 13, and that counsel was opposing any continuation of his deposition by Applicants at any time in the future. Applicants submit that they are entitled to continue with the deposition of Director Kudukis and request issuance of the attached subpoena requiring him to attend and give testimony on May 13, 1975.

4. On the first day, Director Kudukis demonstrated a marked reluctance to respond to questions posed by Applicants'

counsel, and an inordinate amount of time was spent sparring with Director Kudukis and his counsel over the meaning of words with respect to which, as invariably proved to be the case, there was a common understanding by all participants at the outset. As a result, Applicants' counsel was unable to interrogate Director Kudukis about a number of matters clearly within the scope of his responsibility as Director of Public Utilities. Applicants are clearly entitled to pursue these matters with Director Kudukis as part of their discovery in these proceedings, and there clearly is no justification for denying them this right.

5. Pursuant to 10 C.F.R. Section 2.740a, Applicants, on May 8, 1975, caused to be served by mail on Mr. Kudukis notice of deposition to be taken on May 13, 1975; copy of said notice was served on the parties hereto and on the Chairman and members of the Licensing Board.

WHEREFORE, Applicants move this Board to issue the requested subpoena and to deliver the executed subpoena to the undersigned counsel for Applicants, for service on the aforesaid witness.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By:

Wm. Bradford Reynolds

Wm. Bradford Reynolds

Gerald Charnoff

Counsel for Applicants

Enclosure

Dated: May 9, 1975.