

Reg. 2.16



UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

9/18/74

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
THE TOLEDO EDISON COMPANY AND	)	
THE CLEVELAND ELECTRIC ILLUMINATING	)	Docket No. 50-346A
COMPANY	)	
	)	
(Davis-Besse Nuclear Power Station)	)	
	)	
THE CLEVELAND ELECTRIC ILLUMINATING	)	
COMPANY, ET AL.	)	Docket Nos. 50-440A
	)	50-441A
(Perry Nuclear Power Plant, Units 1	)	
and 2)	)	

MEMORANDUM AND ORDER

On August 15, 1974, the Applicants herein filed a Motion for Summary Disposition with respect to the Petition to Intervene of American Municipal Power-Ohio (AMP-O). Applicants in said Motion for Summary Disposition seek to have the party AMP-O dismissed from this proceeding for failure to advance a contention based on a genuine material fact in dispute. Applicants also assert that AMP-O must respond to said Motion within five (5) days pursuant to rule 2.730(c).

By reply dated August 16, 1974, AMP-O noted that, pursuant to 10 CFR 2.749(a), it may submit a response to

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said Motion at any time prior to two (2) days before the start of the evidentiary hearing. The City of Cleveland, joined by the Department of Justice, has requested time until September 30, 1974, to respond to said Motion for Summary Disposition.

As stated by the Commission in the Waterford case (Louisiana Power and Light Company, RAI-73-9, p. 621), all or part of any proceeding may be summarily disposed of "... if it becomes apparent at any point that no meaningful nexus can be shown ...." Certainly the Applicant has raised the issue of nexus. In addition in view of section 2.711, the Board interprets the rules earlier cited as clearly placing discretion in the Board as to questions of time involving the orderly conduct of the proceeding. Accordingly, the Board will consider the said Motion for Summary Disposition as soon as responses thereto are received.

As the parties have been previously advised by telephone conference call, the Board will permit a reasonable time within which any party may respond to said motion. Accordingly, the Board will accept response to said Motion for Summary Disposition from any party provided it is

filed on or before October 10, 1974. Thereafter, the Applicant may reply on or before October 20, 1974.

In view of above determination, all other pleadings filed by the parties with respect to said Motion for Summary Disposition are considered moot.

IT IS SO ORDERED.

THE ATOMIC SAFETY AND  
LICENSING BOARD

  
John B. Farmakides, Chairman

Issued at Bethesda, Maryland,  
this 18th day of September, 1974.

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

In the Matter of )  
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TOLEDO EDISON COMPANY, ET AL. ) Docket No.(s) 50-346A  
CLEVELAND ELECTRIC ILLUMINATING ) 50-440A  
COMPANY ) 50-441A  
 )  
 )  
 )

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document (s\*\_\_\_) upon each person designated on the official service list compiled by the Office of the Secretary of the Commission in this proceeding in accordance with the requirements of Section 2.712 of 10 CFR Part 2 - Rules of Practice, of the Atomic Energy Commission's Rules and Regulations.

Dated at Washington, D. C. this  
10th day of Sept. 1974.

Brenda Eagona Bailey  
Office of the Secretary of the Commission

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

In the Matter of )

TOLEDO EDISON COMPANY, ET AL. )  
CLEVELAND ELECTRIC ILLUMINATING )  
COMPANY )

Docket No. 50-346A  
50-440A  
50-441A

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