

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,
Units 1, 2 & 3)

THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, ET AL.
(Perry Nuclear Power Plant,
Units 1 & 2)

NRC Docket Nos. 50-346A
50-500A
50-501A

NRC Docket Nos. 50-440A
50-441A

ANSWER OF NRC STAFF IN OPPOSITION TO APPLICANTS'
MOTION FOR LEAVE TO FILE REPLY TO OPPOSITIONS TO
APPLICANT'S REFILED MOTION FOR SUMMARY DISPOSITION

On October 7, 1975 the applicants filed their Motion For Leave to File Reply to Oppositions to Applicants' Refiled Motion for Summary Disposition. Applicants' Refiled Motion for Summary Disposition was filed on September 23, 1975. Applicants' previous motions for summary disposition were filed on August 18, 1975 and August 15, 1974. The Staff opposes applicants' present motion.

The instant motion is still another attempt to have the Board procedurally rule out of this matter the substantive issue of CEI's refusal to wheel PASNY power to the city of Cleveland, Ohio. In the past all of the parties have opposed Applicants' efforts and the Board has sustained that opposition.

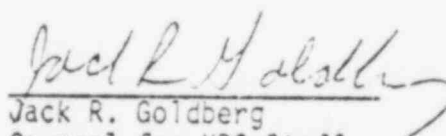
8002190893

M

Applicants' present motion contains no new issues or facts to warrant their request. In response, Staff hereby incorporates by reference its answers in opposition to applicants' repeated motions for summary disposition ^{1/}.

In view of the foregoing, Staff recommends that the Board deny Applicants' Motion for Leave to File Reply to Oppositions to Refiled Motion for Summary Disposition.

Respectfully submitted,


Jack R. Goldberg
Counsel for NRC Staff

^{1/} Staff's Answer in Opposition to Applicants' Motion for Summary Disposition, October 10, 1974.

Staff's Answer in Opposition to Applicants' Renewed Motion for Summary Disposition, September 9, 1975.

Staff's Answer in Opposition to Applicants' Refiled Motion for Summary Disposition, October 6, 1975.

Dated at Bethesda, Maryland,
this 16th day of October, 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,)
Units 1, 2 & 3))

NRC Docket Nos. 50-346A
50-500A
50-501A

THE CLEVELAND ELECTRIC ILLUMINATING)
COMPANY, ET AL.)
(Perry Nuclear Power Plant,)
Units 1 & 2))

NRC Docket Nos. 50-440A
50-441A

CERTIFICATE OF SERVICE

I hereby certify that copies of ANSWER OF NRC STAFF IN OPPOSITION TO APPLICANTS' MOTION FOR LEAVE TO FILE REPLY TO OPPOSITIONS TO APPLICANT'S REFILED MOTION FOR SUMMARY DISPOSITION, dated October 16, 1975, in the captioned matter, have been served upon the following by deposit in the United States mail, first class or air mail, this 16th day of October 1975:

Douglas V. Rigler, Esq.
Chairman, Atomic Safety and
Licensing Board
Foley, Lardner, Hollabaugh
and Jacobs
Schanin Building
815 Connecticut Avenue, N.W.
Washington, D.C. 20006

Ivan W. Smith, Esq.
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Mr. John M. Frysiak
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing Board
Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Melvin G. Berger, Esq.
Joseph J. Saunders, Esq.
Steven Charno, Esq.
Ruth Greenspan Bell, Esq.
Janet Urban, Esq.
P. O. Box 7513
Washington, D.C. 20044

Docketing and Service Section
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

John Lansdale, Esq.
Cox, Langford & Brown
21 Dupont Circle, N.W.
Washington, D.C. 20036

Reuben Goldberg, Esq.
David C. Hjelmfelt, Esq.
1700 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Donald H. Hauser, Esq.
Victor F. Greenslade, Jr.
The Cleveland Electric
Illuminating Company
P. O. Box 5000
Cleveland, Ohio 44101

Leslie Henry, Esq.
Fuller, Henry, Hodge & Snyder
300 Madison Avenue
Toledo, Ohio 43604

Thomas A. Kayuha
Executive Vice President
Ohio Edison Company
47 North Main Street
Akron, Ohio 44308

Thomas J. Munsch, Esq.
General Attorney
Duquesne Light Company
435 Sixth Avenue
Pittsburgh, Pennsylvania 15219

Karen H. Adkins, Esq.
Richard M. Firestone, Esq.
Antitrust Section
30 East Broad Street, 15th Floor
Columbus, Ohio 43215

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

David McNeil Olds, Esq.
William S. Lerach, Esq.
Reed, Smith, Shaw & McClay
747 Union Trust Building
P. O. Box 2009
Pittsburgh, Pennsylvania 15230

Gerald Charnoff, Esq.
Wm. Bradford Reynolds, Esq.
Shaw, Pittman, Potts &
Trowbridge
910-17th Street, N.W.
Washington, D.C. 20006

James B. Davis, Director
of Law
Robert D. Hart, Esq.
City of Cleveland
213 City Hall
Cleveland, Ohio 44114

Joseph A. Rieser, Esq.
Lee A. Rau, Esq.
Reed, Smith, Shaw & McClay
Suite 404
Madison Building, N.W.
Washington, D.C. 20005

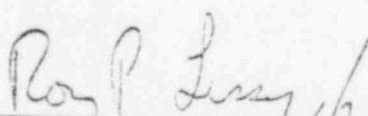
Alan S. Rosenthal, Chairman
Atomic Safety and Licensing
Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Michael C. Farrar
Atomic Safety and Licensing
Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Richard S. Salzman
Atomic Safety and Licensing
Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Michael M. Briley, Esq.
Roger P. Klee, Esq.
Fuller, Henry, Hodge & Snyder
300 Madison Avenue
Toledo, Ohio 43604

Terence H. Benbow, Esq.
A. Edward Grashof, Esq.
Steven A. Berger, Esq.
40 Wall Street
New York, New York 10005


Roy P. Lessy, Jr.
Counsel for NRC Staff