

*50-346A*

UNITED STATES OF AMERICA  
ATOMIC ENERGY 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, )  
Unit 1) )  
)  
THE CLEVELAND ELECTRIC ILLUMINATING )  
COMPANY, ET AL. )  
(Perry Nuclear Power Plant, )  
Units 1 and 2) )

Docket Nos 50-346A  
50-440A  
50-441A

ORDER ON APPLICANTS'  
MOTION FOR SUMMARY DISPOSITION

On August 15, 1974, the Applicants filed a Motion for Summary Disposition pursuant to Section 2.749 of the Commission's Rules of Practice, directed to the intervention of the party AMP-O. The Applicants allege that no genuine issue of material facts remains as to AMP-O's allegation of nexus and that lacking a sufficient degree of nexus AMP-O should be dismissed from the proceeding.

In their Motion, the Applicants reargue, in essence, their position with respect to the sufficiency of the showing of nexus by AMP-O. However, as the Applicants recognize, especially in their reply brief of October 21, 1974, the Board has previously determined that AMP-O has made a sufficient

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pleading of nexus to permit intervention in the Perry antitrust proceeding.\* The Board recognizes the potential use of discovery by AMP-O to support its pleading of nexus. Therefore, it would appear that Applicants' Motion is premature.

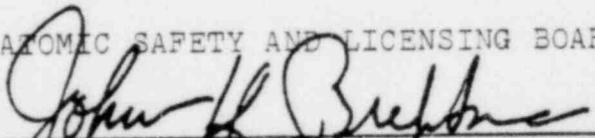
The Board also notes that dismissing the issue of wheeling (underpinning the nexus contentions of AMP-O) as to AMP-O, would not necessarily eliminate this issue from consideration in this proceeding since it may arise from the contentions of the other parties as reflected in the matters in controversy admitted.

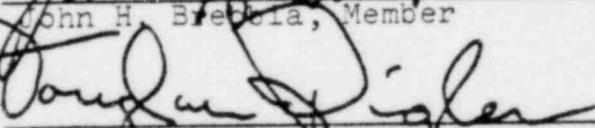
Accordingly, the Board hereby denies the Applicants' Motion for Summary Disposition as to AMP-O without prejudice to the Applicants to renew their Motion after the close of discovery.

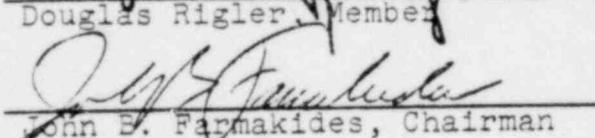
\*Final Memorandum and Order on Petitions to Intervene and Request for a Hearing, April 15, 1974

IT IS SO ORDERED.

ATOMIC SAFETY AND LICENSING BOARD

  
\_\_\_\_\_  
John H. Bredia, Member

  
\_\_\_\_\_  
Douglas Rigler, Member

  
\_\_\_\_\_  
John E. Farmakides, Chairman

Dated at Bethesda, Maryland,  
this 4th day of November 1974