

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	)	Docket No. 50-346A
COMPANY	)	
(Davis-Besse Nuclear Power Station,	)	
Unit 1)	)	
	)	
THE CLEVELAND ELECTRIC ILLUMINATING	)	
COMPANY, ET AL.	)	Docket Nos. 50-440A
(Perry Nuclear Power Plant,	)	50-441A
Units 1 and 2)	)	
	)	
THE TOLEDO EDISON COMPANY, ET AL.	)	
(Davis-Besse Nuclear Power Station,	)	Docket Nos. 50-500A
Units 2 and 3)	)	50-501A

APPLICANTS' MOTION FOR LEAVE TO FILE

1. Pursuant to Section 2.730 of the Commission's Rules of Practice, Applicants hereby request leave to file the accompanying "Applicants' Joint Brief In Support Of Their Proposed Findings Of Fact And Conclusions Of Law." Such a supporting brief is contemplated by Section 2.754(a) of the Commission's Rules and is essential to an understanding of the legal and factual analysis sustaining Applicants' Proposed Findings and Conclusions.

2. At the close of the hearing, the Chairman directed all parties to limit their Proposed Findings and Conclusions to a specific number of pages -- 250 pages for Applicants

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(Tr. 12685-86). Applicants were able to meet this limitation only by framing their ultimate fact and legal statements without inclusion of the essential record evaluation and legal analysis sustaining Applicants' positions. For this reason, a supporting brief explaining our view of the evidence which was accumulated during this seven-month hearing, and analyzing that evidence in light of the applicable legal principles and relevant case law, was deemed imperative in order to apprise this Board fully of the state of the record.

3. The undersigned counsel had fully anticipated that the page limit imposed on Proposed Findings And Conclusions would not permit Applicants to treat adequately the matters in controversy and the numerous allegations thereunder (Tr. 12685-88). After voicing his concern, the following exchange took place (Tr. 12688-89):

[MR. REYNOLDS]: I guess the way to proceed is to come back with a request for leave of the Board to file a brief that includes extra pages, if indeed it looks like that's going to be necessary.

[CHAIRMAN RIGLER]: I agree.

4. Based on that understanding, and the Commission's Rules permitting the filing of briefs in support of Proposed Findings And Conclusions, Applicants have diligently and carefully prepared the accompanying brief. We ask that this Board grant Applicants leave to file their Joint Supporting Brief. We

believe it will aid this Board immeasurably in reaching the correct decision in this proceeding.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By: Wm. Bradford Reynolds  
Wm. Bradford Reynolds  
Robert E. Zahler  
Counsel for Applicants

Dated: August 30, 1976

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THE CLEVELAND ELECTRIC ILLUMINATING	)	Docket No. 50-346A
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THE CLEVELAND ELECTRIC ILLUMINATING	)	
COMPANY, ET AL.	)	Docket Nos. 50-400A
(Perry Nuclear Power Plant,	)	50-401A
Units 1 and 2)	)	
	)	
THE TOLEDO EDISON COMPANY, ET AL.	)	
(Davis-Besse Nuclear Power Station,	)	Docket Nos. 50-500A
Units 2 and 3)	)	50-501A

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Applicants' Motion For Leave To File" were served upon each of the persons listed on the attached Service List, by hand delivering a copy to those in the Washington, D.C. area and by mailing a copy, postage prepaid, to all others, all on this 30th day of August, 1976.

SHAW, PITTMAN, POTTS & TROWBRIDGE

By: Wm. Bradford Reynolds  
Wm. Bradford Reynolds  
Counsel for the Applicants

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