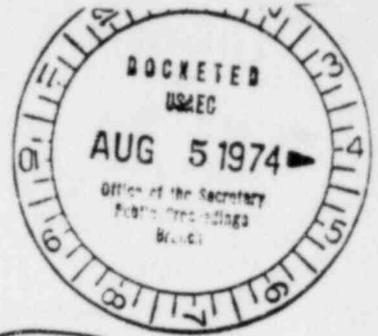


8/5/74

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION



In the Matter of )  
The Toledo Edison Company and )  
The Cleveland Electric Illuminating )  
Company )  
(Davis-Besse Nuclear Power Station) )  
The Cleveland Electric Illuminating )  
Company, et al. )  
Duquesne Light Company, et al. )  
(Beaver Valley, Unit 2) )

Docket No. 50-346A

Docket Nos. 50-440A  
50-441A

Docket No. 50-412A

RESPONSE OF AMP-OHIO  
TO THE BOARD'S REQUEST  
FOR CLARIFICATION OF  
AMP-OHIO'S CONTENTIONS IN  
THE BOARD'S PREHEARING CONFERENCE  
ORDER #2

I. INTRODUCTION

On July 25, 1974, the Atomic Safety and Licensing Board (hereinafter the Board) issued its Prehearing Conference Order #2. In it the Board apparently again seeks a further explanation of the issues presented by American Municipal Power-Ohio, Inc. (hereinafter AMP-OHIO). As stated by the Board:

In its Memorandum and Order of April 15, 1974, the Board required AMP-O to explain more fully the mechanisms and relationships that it believed would result in operations under the licenses for the Davis-Besse and Perry plants injuring AMP-O. This requirement was held in abeyance pending the development of the Joint Statement. The Joint Statement did not provide the information the Board seeks, and consequently, such requirement is hereby reinstated. AMP-O's

statement shall be filed within 10 days of this Order. In any event, since AMP-C's contentions were limited to wheeling, its discovery shall also be so limited.<sup>1/</sup>

AMP-OHIO is frankly surprised at the requirement of the Board that its position on nexus be made more precise than it has already been in its Petition to Intervene, the Request for Reconsideration of Tentative Denial of Petition to Intervene filed by AMP-OHIO, the Joint Statement referred to by the Board supra, oral argument before the Board at the various hearings held, and in the letter from O'Brien & Gere, AMP-OHIO's consulting engineers, on file with this Board as an exhibit. This is particularly so since the Board has already found AMP-OHIO's contentions to be a "... sufficient pleading of nexus to permit AMP-O's intervention in the Perry proceeding."<sup>2/</sup> Moreover, we reiterate our contention that this matter is a proper subject for discovery, but not a matter relating to the threshold jurisdictional question once that determination has been made.

Nevertheless, in recognition of the desire of the Board for a further exposition of the question of nexus, AMP-OHIO will, once again

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<sup>1/</sup> Ibid. at p. 14. It should be noted that counsel for AMP-OHIO were not served with a copy of the July 25, 1974 Order. Mr. John Engle of AMP-OHIO was served, but became aware of its existence only after return from vacation. Thus the undersigned were not made aware of the extent Order until August 2, 1974. We are unable to explain this lack of service upon counsel.

<sup>2/</sup> Final Memorandum and Order on Petitions to Intervene and Requests for Hearing, at p. 5. Note that the Applicant did not file a Petition for Rehearing of the Board's final order and AMP-OHIO has a full and final status as intervenor in these proceedings.

delineate the "... technical, economic and marketing relationships that AMP-O asserts could lead to AMP-O being unable to fulfill its commitment to Cleveland."<sup>3/</sup>

II. The Interests of AMP-OHIO

In the present proceeding, AMP-OHIO stands as an actual competitor to the applicant Cleveland Electric Illuminating Company (hereinafter CEI). As the Board is well aware, AMP-OHIO stands in the unique position of having the institutional capability of purchasing low cost hydroelectric power from the Power Authority of the State of New York under Public Law 85-159. As the Board is further aware, AMP-OHIO has access to approximately 30 megawatts of PASNY power for resale to the City of Cleveland, a present and captive customer of CEI. Finally, AMP-OHIO has ample authority under its Articles of Incorporation and General Corporation Act of Ohio to develop generation on an economic basis for the benefit of its constituent members.

AMP-OHIO is, however, presently precluded from either serving as the Ohio marketing agent for PASNY power or from developing large scale generation due to the fact that CEI controls needed transmission facilities. AMP-OHIO's immediate interests in these proceedings relate to the PASNY question, but there is no doubt that the issues posed by AMP-OHIO in the present proceedings have applicability to the longer term relations of AMP-OHIO and CEI.

<sup>3/</sup> Final Memorandum and Order on Petitions to Intervene and Request for Hearing, at p. 5.

AMP-OHIO's immediate concern deals with the effect of the Perry unit on CEI's transmission capabilities. There is no doubt that the addition of Perry will have an overall impact on CEI's total system, although the nature and extent of that impact can only be delineated through the normal processes of discovery.

In the discovery process, AMP-OHIO will seek to determine whether the addition of Perry will render CEI incapable of wheeling PASNY power, on behalf of AMP-OHIO, to the City of Cleveland. Second, and assuming wheeling capacity would remain, AMP-OHIO will seek to determine whether the addition of Perry will affect CEI's system to such an extent as to pose reliability questions in relation to wheeling services for AMP-OHIO.

In either circumstance, AMP-OHIO's competitive relationship with CEI will be affected. If the addition of Perry means that AMP-OHIO will be effectively precluded from serving as a present or future competitor to CEI, then this Board, and ultimately the Commission, must consider whether the granting of the requested license will be in the public interest as embodied in the Atomic Energy Act and the anti-trust laws. In so doing, this Board, and ultimately the Commission, must further consider the desirability of imposing conditions and/or restrictions on the license that would accommodate the interest and needs of CEI and of AMP-OHIO.

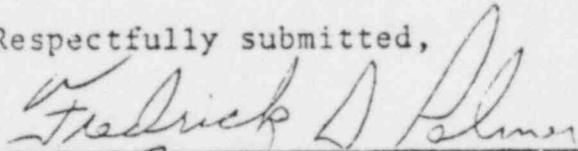
It should be kept in mind that at this stage of the proceedings both AMP-OHIO and this Board lack sufficient information to formulate definitive opinions and views as to the issues presented. Only through discovery and the normal course of events of these proceedings can the issues be resolved. But AMP-OHIO and the Board do have the benefit of the opinion of O'Brien & Gere and AMP-OHIO again

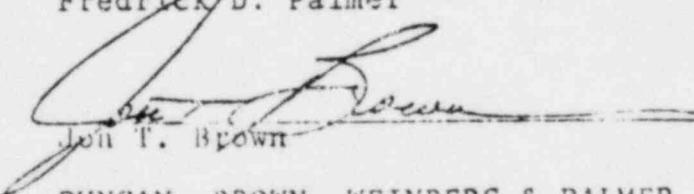
submits as an exhibit a copy of their letter concerning technical aspects of the impact of Perry on CEI's system. In O'Brien & Gere's view, operation of Perry raises questions concerning wheeling capacity and system reliability. While the language of the letter is technical, the message is clear--there will be some impact. It is now up to the parties to define the extent of impact through discovery and hearings.

III. Conclusion

In light of the schedule established by the Board, it is apparent that the issues posed by AMP-OHIO will now be resolved within a definitive time frame. AMP-OHIO intends to vigorously pursue discovery and participate fully in these proceedings. CEI is and has always been fully aware of AMP-OHIO's interest herein and has always understood the issues posed by AMP-OHIO. If, in the discovery process, CEI believes that AMP-OHIO seeks information not germane to the issues posed, then CEI has recourse to this Board pursuant to the Commission's Rules and Regulations. Hopefully, however, all parties now have a full understanding of the position of AMP-OHIO and its relationship to CEI and discovery processes can commence in an orderly fashion.

Respectfully submitted,

  
Fredrick D. Palmer

  
Jon T. Brown

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CONSULTING ENGINEERS, INC.

March 29, 1974

John T. Brown, Esq.  
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Re: Amp-Ohio, Inc.  
PASNY Power

File: 1243.001

Dear Rick:

We are making the following comments at your request concerning the March 15, 1974 Memorandum and Order of the Atomic Energy Commission relative to the proposed Perry Nuclear Power Station.

On Page 10 of the Memorandum, the Board states that "the petitioner seems to be saying that the sole nexus involved here is that the Perry Plant would merely affect the 'wheeling' capacity of CEI's transmission system." This is not the sole nexus; there is also the question of overall power system stability that was raised in our letter of February 28, 1974.

We shall comment first on the question of wheeling. Refer to the guidelines in Waterford which the Board says must be met to establish a nexus. On Page 1170 of Waterford, allegations (2) and (5) most certainly apply in the case at issue. The Cleveland Electric does control the bulk power transmission system which is the last vital link for the wheeling of PASNY power and with the installation of the major Perry Plant may be in the position to load transmission circuits to preclude the delivery of power from the Power Authority of the State of New York to the City of Cleveland.

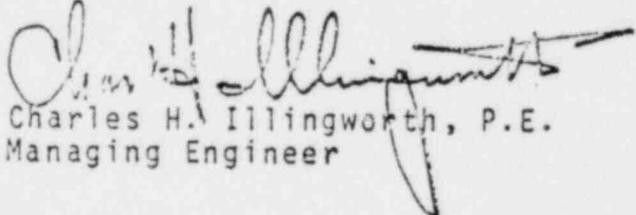
John T. Brown, Esq.  
March 29, 1974  
Page Two

As mentioned above, the question of stability must also be reviewed. The author has had considerable experience in power system analysis, having served as a utility representative on a special Federal Power Commission study of the November 1965 Northeast power interruption. It is almost the universal practice in power system planning to fully represent area transmission and generating facilities in system transient stability studies to determine if the addition of a major generating plant could result in conditions following a system disturbance that would result in system instability and the break-up of the area transmission system.

In this instance, there is the danger of the Cleveland Municipal System, radial to the transmission facilities of the Cleveland Electric Illuminating Company on a tie ordered by the Federal Power Commission, separating from the interconnected system. This separation would not only interrupt the delivery of PASNY power but it would also sever the system from the availability of emergency power. The Cleveland Electric Illuminating Company is a member of ECAR, the area transmitting reliability group, and has access to all pertinent system data; whereas, AMP-Ohio is not a member of this group and does not have access to the necessary information to test the system for a load and stability conditions. The Cleveland Electric Illuminating Company must demonstrate that computer model simulation has included the vital wheeling facilities for PASNY power and of full representation of the Municipal Generating Facilities in stability studies.

Very truly yours,

O'BRIEN & GERE ENGINEERS, INC.

  
Charles H. Illingworth, P.E.  
Managing Engineer

CHI/jc

cc: Mr. John C. Engle  
Mr. Adam W. Kubik

CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing pleading has been made on the following parties listed on the attachment hereto, this 5th day of August, 1974, by depositing copies thereof in the United States mail, first class or air mail, postage prepaid.

  
Fredrick D. Palmer  
Fredrick D. Palmer

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