

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
THE TOLEDO EDISON COMPANY and)	NRC Docket Nos. <u>50-346A</u>
THE CLEVELAND ELECTRIC ILLUMINATING)	50-500A
COMPANY)	50-501A
(Davis-Besse Nuclear Power Station,)	
Units 1, 2 & 3))	
THE CLEVELAND ELECTRIC ILLUMINATING)	NRC Docket Nos. 50-440A
COMPANY, ET AL.)	50-441A
(Perry Nuclear Power Plant, Units)	
1 & 2))	

RESPONSE OF THE NRC STAFF TO THE
MOTION BY THE CITY OF CLEVELAND
FOR CLARIFICATION OF LICENSE
CONDITIONS

By motion dated January 12, 1977, the City of Cleveland filed with this Board a "Motion ... For Clarification Of License Conditions." The point on which the City desired clarification is whether the license conditions ordered by this Board to be attached to the Davis-Besse 1, 2, and 3 and Perry 1 and 2 nuclear units includes a requirement that Applicants make available to non-Applicant entities in the CCCT all-requirements and partial-requirements wholesale power.

Currently, each Applicant sells partial or full-requirements wholesale power to non-Applicant entities in the CCCT.^{1/}

The Board's license conditions provide in part:

Preemption of options to heretofore deprived entities shall be regarded as inconsistent with the purpose and intent of these conditions.

^{1/} The final Applicant to agree to partial requirements wholesale sales was CEI, which on June 30, 1976 executed such a service schedule with the City of Cleveland (App. Ex. 271).

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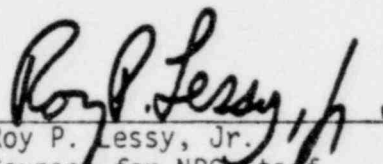
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Interpreting the phrase "heretofore deprived entities" to mean non-Applicant CCCT entities, it is reasonably clear, Staff believes, that Applicants are required to [continue to] make available to entities in the CCCT, full or partial requirements wholesale power.

This requirement is consistent with the testimony of the Staff's engineering expert Harold Mozer, who testified that without the option of partial-requirements firm power, "it would not be possible for many small entities to take advantage of the nuclear option."^{2/}

Therefore, the NRC Staff concurs in the result of the City's Motion inasmuch as Staff believes that the license conditions ordered by the Board should be interpreted so as to require Applicants to make available to non-Applicant CCCT entities full and/or partial-requirements wholesale power.

Respectfully submitted,


Roy P. Jessy, Jr.
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 21st day of January 1977.

^{2/} Mozer, NRC 205, pp. 78-79, Q. 209.

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50-441A

CERTIFICATE OF SERVICE

I hereby certify that copies of RESPONSE OF THE NRC STAFF TO THE MOTION BY THE CITY OF CLEVELAND FOR CLARIFICATION OF LICENSE CONDITIONS in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class or air mail, or as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 21st day of January 1977:

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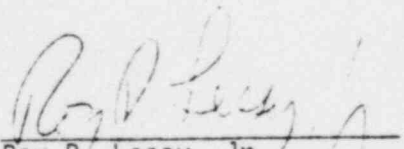
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