



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL 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

NRC STAFF'S ANSWER TO APPLICANTS'
MOTION FOR AN EXTENSION OF TIME

1-18-77

By motion dated January 13, 1977, Applicants filed with the Appeal Board a "Motion For An Extension of Time to File Exceptions and Briefs" to the initial antitrust decision rendered by the Atomic Safety and Licensing Board on January 6, 1977. Included within that motion is a request by Applicants that the Appeal Board approve a briefing schedule for all parties as submitted by Applicants. ^{1/}

The Staff does not oppose the granting of an appropriate extension of time within which parties to the proceeding may file exceptions to the initial decision, a supporting brief, or answering briefs in response thereto. The length and complexity of issues involved in the initial decision clearly warrant the granting of more time than is provided for in 10 CFR §2.762.

^{1/} Such briefing schedule is roughly based on the Appeal Board Order of July 25, 1975, In the Matter of Consumers Power Company (Docket Nos. 50-329A & 50-330A). Such initial dates were however modified by subsequent Orders dated October 29, 1975, December 30, 1975 and February 17, 1976.

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The Staff, however, opposes the schedule proposed by Applicants on the grounds that it provides for an unnecessarily lengthy briefing schedule and because it provides the Applicants with an overly generous briefing schedule at the expense of the time available to other parties to submit their answering briefs. Accordingly, the Staff would propose as an alternative to the Applicants' proposed schedule the following schedule:

Exceptions to Initial Decision	February 11, 1977
Brief in Support of Exceptions	April 1, 1977
Answering Briefs	June 10, 1977
Reply Brief (Applicants)	June 27, 1977.

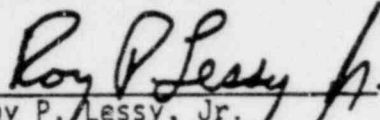
The Staff believes its proposed schedule is preferable for two reasons. First, Staff's schedule is in overall length four weeks shorter. Second, the time afforded Applicants (to file exceptions and supporting brief - seventy days) is also afforded the other parties.

It may be anticipated that the other parties to this proceeding will propose schedules which differ in various respects from those proposed by either the Applicants or the Staff. In that event, the Staff

^{2/} In addition, Applicants are afforded an additional seventeen days within which to file a reply brief.

would propose that the Appeal Board convene a telephone conference call with counsel for the parties, prior to ruling on the various proposed schedules. Such a conference call might aid the Appeal Board in reaching the most equitable decision on this matter.

Respectfully submitted,


Roy P. Lessy, Jr.
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 18th day of January 1977.

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50-441A

CERTIFICATE OF SERVICE

I hereby certify that copies of NRC STAFF'S ANSWER TO APPLICANTS' MOTION FOR AN EXTENSION OF TIME 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 18th day of January 1977:

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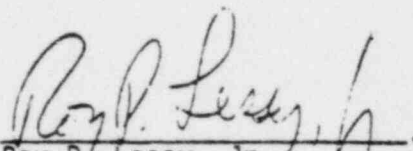
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