

60-346A-500A/440A

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DESCRIPTION	ENCLOSURE
<p>Response to NRC ltr dtd 02/21/78... Furnishing info concerning the Transmission Service Tariff filed by Applicant with the FERC on January 27, 1978 (Tariff).</p> <p>6p</p> <p>DAVIS BESSE 1 & 2 PERRY UNIT 1 PLANT NAME : jcm 03/25/78 <i>Dist Per A. Toalston 3/24/78</i></p>	<p>POOR ORIGINAL</p>

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March 17, 1978

Mr. Jerome Saltzman
Chief, Antitrust & Indemnity Group
Nuclear Reactor Regulation
Nuclear Regulatory Commission
Washington, D.C. 20555

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NUCLEAR REGULATORY
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50-346A
50-500A
50-440A

Dear Mr. Saltzman:

This letter is in response to your request of February 21, 1978 for information concerning the Transmission Service Tariff which was filed by this Company (CEI) with the FERC on January 27, 1978 (Tariff).

Before addressing the specific questions posed in Enclosure "A", the following statements are made:

1. It should be emphasized that it is the policy and intent of CEI to provide transmission services in compliance with the Initial Decision issued on January 6, 1977 by an Atomic Safety and Licensing Board of the NRC in The Toledo Edison Company, et al. (Davis-Besse Power Station Units 1, 2 and 3), Docket Nos. 50-346A, 50-500A, and 50-501A and The Cleveland Electric Illuminating Company, et al. (Perry Nuclear Power Plant Units 1 and 2), Docket Nos. 50-440, 50-441A (5 NRC 133), including any modifications thereto that may occur as a result of the administrative appeals. Moreover, at such time as a final decision is rendered by the Nuclear Regulatory Commission (NRC), CEI shall comply with the antitrust conditions of such final decision. Specific provisions of the Tariff so provide.
2. There will be compliance with the antitrust license conditions in implementing the Tariff filed with the FERC on January 27, 1978. A supplemental schedule is required before CEI can provide any actual transmission services to any customer which is not inconsistent with industry practices. Such a supplemental schedule, as well as its implementation, will also comply with the antitrust license conditions.
3. Such a supplemental schedule cannot be prepared and filed until a meaningful written request is received from a customer which must include at least the proposed magnitude of the reservation, the proposed period of the reservation, the proposed interconnection point and the proposed delivery point. To date CEI has not received such a request from any customer either before or after the filing of the Tariff.

W. J. ...

4. In the absence of such a real and meaningful request to provide transmission services the Tariff was unilaterally filed by CEI in good faith to demonstrate CEI's policy and intent to comply with the Initial Decision. Experience over the years had demonstrated that any further efforts of CEI to negotiate a transmission services tariff with Cleveland would be a waste of time.
5. Until such a real and meaningful request for service is received, it is difficult to respond to general, hypothetical questions or attacks concerning the Tariff which in essence is a generic statement of the transmission policy of CEI. In these circumstances, such attacks are based on a high degree of speculation and, therefore, are premature. Moreover, until a definite transmission request is received it is difficult, if not impossible, for anyone to apply and interpret the transmission license conditions.
6. While it is difficult to anticipate what requests for transmission service transactions might be requested, it is even more difficult to anticipate what operating situations might occur during the period such services are actually provided. These uncertainties must be taken into account in considering the Tariff and any supplemental schedules.
7. The service to be provided under the Tariff and a Supplemental Schedule is available to any rural electric cooperative or municipality located within the Combined CAPCO (Central Area Power Coordination Group) Company Territories (CCT). The Cities of Cleveland and Painesville (located within CEI's territory) are not the exclusive potential customers under the Tariff.
8. CEI could also provide transmission services to the Cities of Cleveland and Painesville pursuant to supplemental schedules to the Painesville and Cleveland Interconnection Agreements or a separately filed tariff.

Following is CEI's response to the questions posed to Enclosure "A" of the letter of February 21, 1978.

1. The January Tariff will terminate on the date of the final NRC decision. This was proposed because the purpose of filing the Tariff was to comply with the initial NRC decision. If the final NRC decision differs from the initial decision with respect to transmission services to be offered, CEI would expect to modify the Tariff to comply with the final decision. If, for example, the final decision affirms the initial decision, CEI would move to void the cancellation provision or in the alternative immediately file a new tariff without the termination provision.

Any supplemental schedule and service being furnished thereunder, including the conditions under which the schedule and service would be terminated, would depend on the terms and conditions of such supplemental schedule. If the final decision of the NRC affirms the wheeling obligations as ordered by the Licensing Board, CEI would immediately seek to void any inconsistent termination provision, and transmission services to the customer would not be interrupted. Since the charges in the Tariff are monthly charges no adjustment would be made in the event of termination other than to prorate the charges in the month of termination.

We believe a 12-month reservation or longer is the most likely to be requested. We do not believe that it is possible to devise a single tariff that would properly treat all of the possible variations of transmission service that anyone could think up. Since we have not had any requests for any specific transmission service we have proposed a tariff which we believe would be applicable to the most likely service to be requested. For example, a 12-month reservation as provided in the Tariff would handle transactions such as the transmission of PASNY power which we would expect to be of extended duration.

2. The proposed Tariff is not designed to be applicable to causal or variable services. Present effective service schedules with Cleveland and Painesville, in addition to emergency service, provide the equivalents of short term (week) and limited term (month) transactions. It is contemplated that power through purchases and sales can be obtained from sources other than CEI. This is the practice among Applicants.
3. The length of time required to design a tariff for a period of less than 12 months will depend on the service requested and on the length of the period and the time for which service is requested. Since we have no such requests we are unable to answer the questions with preciseness. CEI would not anticipate that designing such a tariff would be very time consuming if the magnitude of the request did not exceed the maximum loads of Cleveland and Painesville (See Answer to Question 5.)

The proposed Tariff was derived from a previously designed transmission rate which was, so to speak, on the shelf. CEI had hoped to file a rate based on 1978 costs but was unable to do so in the short time available. (CEI intends to file an increase in its rates for wholesale service transactions to Cleveland and Painesville and the Tariff rate within the next six months. We cannot recall how much or when work on it was first started; we believe it was sometime in 1976 and there was substantial agreement with the then representatives of Cleveland.

CEI does not know whether it would or how it might provide service between the date a particular service is requested and the date a tariff is filed. In addition, CEI does not know how to design a tariff in advance of knowing the characteristics of the service requested.

4. CEI considers the transmission service to be rendered under the proposed Tariff to be a firm commitment.

The initial use of "from time to time" merely recognizes the probability that the service may not be wanted continuously by all entities. The second use of "from time to time" covers the situation where an entity may wish to change the maximum amount of the reservation.

5. No credit is provided. The only condition we can conceive of that would result in CEI curtailment of the service would be the imminent break-up of the CEI transmission system. Under this improbable situation all entities, as well as CEI's own customers, would suffer an interruption of service. We would also expect such an interruption to be of extremely short duration.

Under normal load patterns CEI has sufficient transmission capacity to satisfy the combined loads of Cleveland and Painesville. CEI has been supplying the total requirements of Cleveland since April of 1977 almost all of the time. The antitrust license conditions require other entities to give reasonable advance notification of their future requirements for wheeling services so that CEI and other Applicants can plan accordingly.

6. First of all, to repeat, the service to be provided under the Tariff and a supplemental schedule is available to any rural electric cooperative or municipality located within the CCCT, and not just to the City of Cleveland.

The quoted language in the referenced Tariff provisions are intended to be consistent with the standard for assessing transmission capability in the indicated antitrust license condition. CEI plans to adhere to that standard in judging if the requested power can be transmitted.

7. If the magnitude of the request for transmission services to or from Cleveland and Painesville does not exceed the maximum loads of those two entities, it is not anticipated that any difficulty will arise in providing the requested transmission services. In this situation CEI would apply no other standard in granting all specified concurrences.

More generally, it is CEI's interpretation of the antitrust license conditions that unused transmission capacity must be made available to other entities. If there is no unused capacity, then other factors must be considered. For example, the antitrust license conditions require CEI and other Applicants to make reasonable provisions for disclosed transmission requirements of other entities in the CCCT in planning future transmission lines. These conditions require other entities to give reasonable advance

notification of future requirements for utilization of transmission lines for wheeling services. The timeliness (or tardiness) of such advanced notification obviously would be a standard considered by CEI. At this time, it is not possible for CEI to provide a more detailed statement as to the relevant standards to be considered. Each case must, and should, be evaluated as it arises.

The time between a reservation request and implementation, as well as the steps required to achieve such implementation, would depend most importantly on the magnitude of the reservation request. Without knowing the nature of the reservation request CEI cannot at this time provide more details on these matters.

8. If the magnitude of the request for transmission services to or from Cleveland and Painesville does not exceed the maximum loads of those two entities, there are no provisions of any agreement which would limit CEI's ability to reserve and deliver power to or from these two entities in such amounts. In keeping with the antitrust license conditions CEI would not enter into any such limiting agreements.

Also, please refer to the Answer to No. 7.

CEI's interconnected operations, including the agreements pursuant to which such operations are conducted, are a matter of public record in the Davis-Elisse/Terry antitrust proceeding. Those operations have not substantially changed since the testimony in that proceeding.

9. We trust that in view of the foregoing it can be understood why CEI believes that the Tariff is consistent with the antitrust license conditions, including footnote 171 appearing in the Initial Decision at 5 NRC 257.

Finally, while CEI does not believe it necessary, if it will dispose of this matter, CEI will agree to amend the Tariff by adding the following to the first paragraph of page 2 of the Tariff:

"In the event CEI must reduce wheeling services to customers due to lack of capacity, such reduction shall not be effected until reductions of at least 5% have been made in CEI's transmission allocations to other members of the CAPCO Group and thereafter shall be made in proportion to reductions imposed upon other members of the CAPCO Group."

and add the following paragraph:

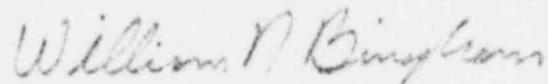
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"Customers shall give CEI reasonable advance notice of future requirements for utilization of transmission services to be made available by CEI so that CEI can make reasonable provisions for disclosed transmission requirements of customers."

If there are any further questions, please advise.

Very truly yours,



William N. Bingham
Principal Rate Engineer

WNB:jc

cc: To All Counsel of Record