

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION



Before the Atomic Safety and Licensing Board

In the Matter of	)	
	)	
The Toledo Edison Company and	)	Docket Nos. 50-346A
The Cleveland Electric Illuminating	)	50-500A
Company	)	50-501A
(Davis-Besse Nuclear Power Station,	)	
Units 1, 2 and 3)	)	
	)	
The Cleveland Electric Illuminating	)	Docket Nos. 50-440A
Company	)	50-441A
(Perry Nuclear Power Plant,	)	
Units 1 and 2)	)	

ANSWER OF THE CITY OF CLEVELAND  
OPPOSING APPLICANT'S MOTION FOR  
LEAVE TO FILE BRIEF IN  
SUPPORT OF PROPOSED FINDINGS  
OF FACT AND CONCLUSION'S OF LAW

At the close of hearings in the above-entitled consolidated proceedings, the Board set strict time schedules for filing briefs and strict page limits on lengths of briefs. Approximately one week before the parties' initial submissions were due to be filed, Applicants sought and were granted, over the objection of all other parties, additional time in which to file. Applicants, in requesting additional time, made no statement that their filing would greatly exceed the page limits set by the Board. Indeed Applicants indicated

that the additional time was needed to reduce their filing to meet the Board's page limits. It was not until the date of their initial filing, subsequent to the initial filing of all other parties, that Applicants made known their intent to file a 698 page unauthorized pleading. City opposes acceptance of Applicants' unauthorized pleading.

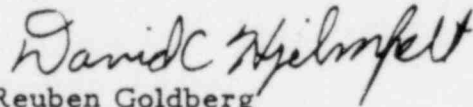
City will be prejudiced by the acceptance of Applicants' unauthorized filing. Had the City known at the time of its initial submittal that instead of facing a 200 page limit it faced no page limit, the nature and scope of its initial filing would have been much different. To cite but one example, the City would have greatly expanded its discussion of the extent and nature of competition in the CCCT had it not been confronted by a 200 page limit. To a large extent this prejudice can not be cured through a reply brief.

The City is further prejudiced in having only two weeks and 15 pages in which to respond to the total of 909 pages of findings of fact, conclusions of law and supporting brief filed herein by Applicants.

Despite their repeated cries for an early decision by this Board, Applicants' actions in extending the time for filing briefs and filing an enormous unauthorized pleading belies their request for an early decision. Applicants must have known that their unauthorized pleading could result in a substantial delay to permit responses by other parties. Unlike Applicants, City remains interested in a prompt resolution of the issue now before the Board.

While the City believes that the arguments advanced by Applicants in their unauthorized pleading are clearly without merit, the inability of the City to respond without a substantial delay in the expected decision by the Board this fall is prejudicial to the City. Therefore the City opposes Applicants' motion for Leave to File.

Respectfully submitted,



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September 30, 1976



CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing City of Cleveland's Answer Of The City Of Cleveland Opposing Applicant's Motion For Leave To File Brief In Support Of Proposed Findings Of Fact And Conclusion's Of Law, has been made on the following parties listed on the attachment hereto this 30th day of September, 1976, by depositing copies thereof in the United States mail, first class or air mail, postage prepaid.

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\_\_\_\_\_  
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