

February 23, 1976

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board



In the Matter of)	
)	
THE TOLEDO EDISON COMPANY and)	
THE CLEVELAND ELECTRIC ILLUMINATING)	Docket No. 50-346A
COMPANY)	
(Davis-Besse Nuclear Power Station,)	
Unit 1))	
)	
THE CLEVELAND ELECTRIC ILLUMINATING)	
COMPANY, ET AL.)	Docket Nos. 50-440A
(Perry Nuclear Power Plant,)	50-441A
Units 1 and 2))	
)	
THE TOLEDO EDISON COMPANY, ET AL.)	
(Davis-Besse Nuclear Power Station,)	Docket Nos. 50-500A
Units 2 and 3))	50-501A

SUPPLEMENTAL RESPONSE OF THE OHIO EDISON
COMPANY TO THE DOCUMENT REQUESTS SERVED
UPON IT BY THE OTHER PARTIES

1. In connection with its preparation for the direct case of the Department of Justice in the present proceeding, and also as a result of a separate and unrelated file search in response to discovery requests served upon the Company in a civil antitrust action initiated by the City of Cleveland in the United States District Court for the Northern District of Ohio, Civil Docket No. C-75-560, the Ohio Edison Company has found in its dead-storage files -- which are maintained in a different building in Akron, Ohio, from the Company's general working files -- certain documents

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which, had their existence been known at the time, would have been produced to the other parties in response to the document requests filed herein.

2. The documents in question are called for under certain of the discovery requests served on Ohio Edison in these consolidated proceedings. They relate generally to the efforts of Ohio Edison since September 1, 1965 to establish with some precision, and operate within, the geographic area in which it makes the best economic and engineering sense for the Company to extend its retail service. Copies of this newly-discovered material have been furnished to the other parties.

3. The discovery requests referenced above also ask that the Company identify any documents which would have been produced in response thereto but for the fact that they are no longer in existence. In late 1972 or early 1973, Mr. J. R. White, then Vice President and General Counsel of Ohio Edison, orally directed that the central office as well as each operating division of the Company search their files for any documentation relating to an arrangement between Ohio Edison and any other electric utility concerning the establishment or definition of precise service areas. This directive was precipitated by the general response of the industry at that time to the district court decision in

United States v. Otter Tail, 331 F. Supp. 54 (D. Minn. 1971), and a concern on the part of Mr. White that certain maps prepared in the 1960's in connection with the legislative effort by the electric utilities in Ohio to enact a territorial integrity law were perhaps being misused.

4. As a result of this file search, approximately three cardboard boxes of material (each the size of a single file drawer) were collected and forwarded to Mr. White. After a very general perusal of the documents, Mr. White orally ordered that to the extent any operating division of the Company was adhering to a service area demarcation in its dealings with actual or potential customers it should stop the practice immediately. He had the three boxes of material removed from his office by the janitorial staff of Ohio Edison and disposed of sometime in April or May 1973.

5. At the time of Ohio Edison's response to the discovery requests, it was believed that the discarded material fell outside the scope of discovery, either by way of time-period or subject matter. The attached documents indicate, however, that the discarded material referenced above did in all probability contain documents which would have been subject to production had they been in existence. However, aside from knowing that the discarded material contained maps and correspondence, the exact nature of the documents, such as

dates, authors and addressees, types of documents, and similar specifics, are not known, and Mr. White's summary review of the documents some three years ago was not adequate or extensive enough to help him recall such details today.

6. In conclusion, Ohio Edison wants to make it clear that the failure to set forth the above information in its earlier responses to document requests was due to an oversight on the part of the Company. The pertinent dead-storage files which contained the newly-discovered material were not examined earlier because the individual who is currently in charge of those files was not aware of their existence at the time of the earlier document production by the Company, and, unfortunately, he had failed to communicate with his predecessors on the matter. The predecessors, in turn, had said nothing about the dead-storage files to counsel on the assumption that their successor was handling that part of the file search. It was only as a result of the recent events mentioned at the outset that this inadvertent oversight came to light.

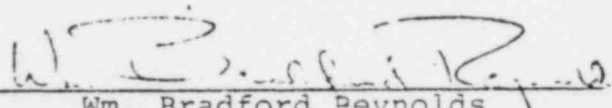
7. Ohio Edison now believes, on the basis of the investigation it has made into this matter in the last few weeks, that this supplement to its earlier document production constitutes a full and complete response to the discovery

requests on the basis of its present knowledge. In the unlikely event that any other documents should surface in this area, however, which fall within the confines of the discovery requests, they will certainly be produced promptly.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By:


Wm. Bradford Reynolds
Counsel for Applicants

Dated: February 23, 1976

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Supplemental Response Of The Ohio Edison Company To The Document Requests Served Upon It By The Other Parties" were served upon each of the persons listed on the attached Service List, by hand delivering a copy to those persons in the Washington, D. C. area and by mailing a copy, postage prepaid, to all others, all on this 23rd day of February, 1976.

SHAW, PITTMAN, POTTS & TROWBRIDGE

By: 

Wm. Bradford Reynolds
Counsel for Applicants

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