

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

COMMISSIONERS:

James R. Schlesinger, Chairman  
James T. Ramey  
Wilfrid E. Johnson  
Clarence E. Larson  
William O. Doub

In the Matter of

THE TOLEDO EDISON COMPANY AND  
THE CLEVELAND ELECTRIC ILLUMINATING COMPANY

(Davis-Besse Nuclear Power Station)

DOCKET NUMBER 50-346

MEMORANDUM AND ORDER

On April 21, 1972, The Toledo Edison Company and The Cleveland Electric Illuminating Company (licensees) filed a motion requesting the Commission to amend its Memorandum and Order and Notice of Hearing dated April 12, 1972. The motion requests the Commission "to require a factual demonstration that Coalition and LIFE are in existence, that there is adequate authority to represent their purported membership, that they have actually suffered an injury, and a particularization of the matters they seek to controvert in the forthcoming proceeding." The regulatory staff and the intervenors have replied.

Under 10 CFR §2.730, all motions shall be addressed to the presiding Atomic Safety and Licensing Board in a proceeding which is pending before it. Thus, although addressed to the Commission, the motion should be before the Licensing Board. In view, however, of the necessity for

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expedited action to comply with the requirements laid down by the Court of Appeals in Coalition for Safe Nuclear Power v. U.S.A.E.C., D.C. Cir., No. 71-1396, we will consider that question directly without consuming additional time by directing certification to us.

We read the above decision of the Court of Appeals as authorizing Coalition and LIFE to be parties to the show-cause proceeding. Accordingly, the licensees' motion in that regard is denied.

The licensees' request that Coalition and LIFE particularize the matters they seek to controvert in the forthcoming proceeding is entirely appropriate for consideration by the Licensing Board. We have emphasized on several occasions the importance of establishing, on as timely a basis as possible, a clear and particularized identification of those matters which are in controversy. This is especially significant where, as here, the proceeding must be conducted with utmost expedition. We have no doubt that the Licensing Board will direct such particularization.

UNITED STATES ATOMIC ENERGY COMMISSION

By: 

W. B. McCool  
Secretary of the Commission

Dated at Germantown, Maryland

this 2nd day of May, 1972.

*Reg files*

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 )  
THE TOLEDO EDISON COMPANY, ET AL. )  
(Davis-Besse Nuclear Power Station )  
Unit 1) )

*5-2-72*

Docket No. 50-346

CERTIFICATE OF SERVICE

I hereby certify that copies of the Commission MEMORANDUM AND ORDER issued May 2, 1972 in the captioned matter have been served on the following by deposit in the United States mail, first class or air mail, this 2nd day of May 1972:

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