



3/30/73

DOCKET NUMBER
PROD. & UTIL. FAC. 50-346

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

In the Matter of)
)
TOLEDO EDISON COMPANY AND)
THE CLEVELAND ELECTRIC)
ILLUMINATING COMPANY)
)
(Davis-Besse Nuclear Power)
Station))

Docket No. 50-346

MEMORANDUM AND ORDER

On January 5, 1973, a "Notice of Hearing pursuant to 10 CFR Part 50, Appendix D, Section B" was published in the Federal Register (38 F. R. 904). The Notice provided that such a Hearing will be held by an Atomic Safety and Licensing Board, and advised, inter alia, that within thirty (30) days from the date of publication " . . . any person whose interest may be affected by this proceeding may file a petition for leave to intervene with respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values. Requests for a Hearing and petitions for leave to intervene shall be filed in accordance with the Commission's 'Rules of Practice' in 10 CFR Part 2".

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By Notice dated March 9, 1973, published in the Federal Register at 38 F. R. 6424, this Board was established to rule on all petitions to intervene and to conduct the Hearing.

By letter dated January 14, 1973, Mr. Steve Ganis requested that he ". . . become a formal legal party in the case". By letters dated February 2 and February 5, 1973, Ms. Evelyn Stebbins sought to intervene on behalf of the Coalition for Safe Nuclear Power. The Applicant and the Regulatory Staff filed answers to both letters.

Both the Applicants and the Staff objected to the admission of Mr. Ganis on the basis that his petition to intervene completely failed to meet any of the requirements of Section 2.714 of the Rules of Practice. Assuming that this letter is intended to be a petition for leave to intervene, the Board agrees that it completely fails to meet the requirements of the Commission's Rules of Practice in that it was not sworn and subscribed to, was not accompanied by affidavit, and does not set forth with particularization both the facts noting his interests

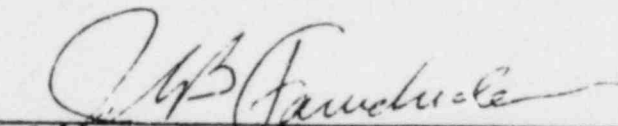
and his contentions and base therefor. Accordingly, this petition is denied. However, Mr. Ganis is invited to present his views to this Board by way of limited appearance at the first day of the Evidentiary Hearing.

The petition filed by Ms. Evelyn Stebbins fails to meet the requirements of Section 2.714 in substantial part. The Applicants objected to admission of this petition on various grounds alleging defect in the petitioner's (1) failure to file under oath or affirmation, (2) lack of required affidavits identifying specific aspects of the proceeding with which the petitioner is concerned, and (3) failure to show facts pertaining to petitioner's interest and the basis of its contentions. The Staff likewise objected to the admission of the petition as filed. The Staff was of the opinion, however, that if the interest of the petitioner were more clearly identified, the Staff would not object to admitting the petitioner as a party, if several contentions, which it noted, could be properly specified with greater particularization and basis therefor. We generally agree with the Staff's responsible proposals in this regard. Accordingly,

the petitioner, Ms. Evelyn Stebbins for the Coalition for Safe Nuclear Power, will be permitted an additional twenty days from the date of this Order to resubmit a petition in conformance with the requirements of Section 2.714 relating to the environmental matters covered by Appendix D to Part 50. In so ruling, we take note of the fact that, contrary to the import of petitioner's February 2 letter, the fact that the Coalition was a party to a previous proceeding involving this power facility does not automatically qualify it as a party here.

IT IS SO ORDERED.

THE ATOMIC SAFETY AND
LICENSING BOARD



John B. Farmakides, Chairman

Issued at Washington, D. C.,
this 30th day of March, 1973.