

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

Before the Atomic Safety and Licensing Board

In the Matter of)

'90 MAR 12 P5:04

THE CLEVELAND ELECTRIC ILLUMINATING)
COMPANY, ET AL.)

OFFICE OF SECRETARY
DOCKET NO. 50-7440 OLA
BRANCH

(Perry Nuclear Power Plant, Unit 1))
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PETITION FOR LEAVE TO INTERVENE AND REQUEST FOR A HEARING

I. INTRODUCTION

On December 19, 1989 the Cleveland Electric Illuminating Company filed with the Nuclear Regulatory Commission ("NRC") a request for an amendment to Appendix A of the operating license for the Perry Nuclear Power Plant. The requested amendment would remove cycle-specific core operating limits and other cycle-specific fuel information from the plant Technical Specifications. Instead, this information would be placed in the Core Operating Limits Report, to be part of the Plant Data Book. The Licensees admit that this amendment will have the effect of "eliminating the majority of license amendment requests for changes in values of cycle-specific parameters in Technical Specifications."

The NRC published a "Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity

for Hearing" regarding this amendment request in the Federal Register on February 7, 1990. 55 Fed. Reg. 4259, 4282. Pursuant to this notice, the Atomic Energy Act (Section 189a, 42 USC 2239) and the NRC's Rules of Practice (10 CFR 2.714), petitioner Ohio Citizens for Responsible Energy, Inc. ("OCRE") hereby requests a hearing on this amendment request and files this petition for leave to intervene in said proceeding with the intention of becoming a full party.

II. DESCRIPTION OF PETITIONER

Petitioner OCRE is a private, nonprofit corporation organized under the laws of the State of Ohio. OCRE specializes in research and advocacy on issues of nuclear reactor safety and has as its goal the promotion and application of the highest standards of safety to such facilities. OCRE was an intervenor in the operating license proceeding for the Perry Nuclear Power Plant. Members of OCRE live and own property within 15 miles of Perry.

OCRE has been authorized by at least one member to represent that member's interests in this proceeding, pursuant to Houston Lighting and Power (South Texas Project, Units 1 and 2), ALAB-549, 9 NRC 644 (1979). See Affidavit of Susan L. Hiatt.

III. NATURE OF OCRE'S RIGHT UNDER THE ATOMIC ENERGY ACT TO BE MADE A PARTY TO THE PROCEEDING

OCRE's right to be made a party to this proceeding is grounded in Section 189a of the Atomic Energy Act, which states that "(i)n any proceeding under this Act for the granting, suspending, revoking, or amending any license or construction permit . . . the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding." 42 USC 2239a. Included in the NRC's definition of "person" is a corporation, such as OCRE. 10 CFR 2.4(o).

IV. NATURE AND EXTENT OF PETITIONER'S INTEREST IN THE PROCEEDING

As noted above, members of OCRE reside and own property within 15 miles of the Perry Nuclear Power Plant. OCRE members have a definite interest in the preservation of their lives, their physical health, their livelihoods, the value of their property, a safe and healthy natural environment, and the cultural, historical, and economic resources of Northeast Ohio. OCRE members also have an interest in preserving their legal rights to meaningful participation in matters affecting the operation of the Perry Nuclear Power Plant which may impact these above-mentioned interests.

V. EFFECT OF ANY ORDER IN THIS PROCEEDING ON PETITIONER'S INTEREST

Should the requested amendment be granted, OCRE members will have no legal mechanism for participating in significant changes in cycle-specific plant operations, as such changes will no longer be considered operating license amendments subject to the notice and hearing requirements of the Atomic Energy Act.

VI. SUBJECT MATTER OF PROCEEDING AS TO WHICH PETITIONER WISHES TO INTERVENE

OCRE intends to raise one issue of law: that the proposed amendment violates Section 189a of the Atomic Energy Act. The specific contention to be litigated will be filed not later than 15 days prior to the first prehearing conference in this proceeding.

OCRE agrees with the Licensee and NRC Staff that the proposed amendment is purely an administrative matter which involves no significant hazards considerations.

Since OCRE's contention will raise a pure issue of law, the outcome of this proceeding should be determined on the basis of briefs or oral argument, pursuant to 10 CFR 2.714(e).

VII. CONCLUSION

For the foregoing reasons, OCRE has demonstrated its right to be made a party to this proceeding, and OCRE's petition for leave to intervene should be granted.

Respectfully submitted,



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DATED: MARCH 8, 1990