

Aug. 16, 1981

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
CLEVELAND ELECTRIC ILLUMINATING)	Docket Nos. 50-440
COMPANY, <u>Et al.</u>)	50-441
)	(Operating License)
(Perry Nuclear Power Plant,)	
Units 1 and 2))	
)	

OCRE REPLY TO STAFF AND APPLICANT'S
RESPONSE TO OCRE
CONTENTION 14 (ELECTROMAGNETIC PULSE)

Pursuant to the Board Order of August 4, 1981, the Ohio Citizens for Responsible Energy ("OCRE") now files this reply to the responses of the Applicant and Staff to OCRE Contention 14 regarding electromagnetic pulse ("EMP"). Applicant and Staff uniformly opposed the filing of the contention in their responses on the grounds that:

1. As a non-timely filing, it failed to satisfy the five factors defined in 10 C.F.R. Section 2.714; and
2. The contention represents an impermissible challenge to the Commission's regulations.

A. The Five Factors

Discussion of the last four factors, Section 2.714(a)(1)(ii through v), is not merited here, nor was it merited in the original filing (July 6, 1981) because OCRE has demonstrated

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OCRE does not doubt that the EMP issue has been known since 1972 and it is possible that the EMP report cited by Staff was available to the public upon its publication in 1976. Nevertheless, the issue has been kept under wraps as the Science News article (May 8, 1981, at 300) upon which OCRE relies pointed out and that Staff chose to ignore. That portion of the article bears repeating: "(F)or years it (EMP) has had an extremely low profile outside the defense-electronics community." Science News, Id. That article is probably the first to alert lay citizens to this very serious problem which could threaten their lives and property.

The fact that an elite community has known about EMP for nine years does not preclude admission of the issue, to this Intervenor's knowledge. Practically, a new issue has arisen and the burden rests squarely upon the Applicant to assure this Licensing Board and Intervenor that EMP at FMEP is treated properly.

B. Impermissible Challenge to Regulations

Staff and Applicant have alleged that OCRE Contention 14 is an impermissible challenge to Commission regulations, specifically 10 C.F.R. Section 50.13. That section states that an Applicant for an operating license is not required to provide for design features or take other measures for the specific purpose of protection against enemy attack. However, OCRE's contention should not be construed that narrowly.

The recent missile silo accident in Arkansas illustrates how a nuclear blast might occur in the absence of an enemy

Further, the instant regulation exempts Applicant from planning that its plant design.

Further, the instant regulation exempts Applicant from planning for only those destructive acts that are "directed against the facility". 10 C.F.R. Section 50.13. It is conceivable that in a nuclear attack on Canada, EMP generated thereof could also knock out PNPP's controls. The above-mentioned Science News article indicates that for a nuclear detonation at an altitude of 100 miles, the ground radius affected by EMP would be 900 miles. At 301. And with that altitude doubled, it continues, "the entire continental United States (including parts of Canada and Mexico) would be drenched in a bath of EMP," for an explosion centered over the United States. Id. With a range that size, the following scenario is possible: Libya, or any other nation developing a nuclear arsenal or already in possession of nuclear warheads, sends a missile towards El Salvador, or any other Central American country and intentionally detonates it while in the upper atmosphere. While this action might not be directed at the Perry facility, PNPP could certainly be disabled by it.

For the rationale expressed above, Applicant must not be permitted to shirk its burden. The EMP issue, OCRE Contention 14, must be admitted and litigated in this proceeding.

Respectfully submitted,

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