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May 9, 1990

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
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Before the Atomic Safety and Licensing Board

In the Matter of)
)
THE CLEVELAND ELECTRIC)
ILLUMINATING COMPANY, et al.)
)
(Perry Nuclear Power Plant,)
Unit No. 1))
)

Docket No. 50-440-OLA-2

LICENSEES' ANSWER TO OHIO CITIZENS FOR
RESPONSIBLE ENERGY, INC. CONTENTION

The Licensing Board's April 2, 1990 Memorandum and Order (Scheduling Filing of Contention) directed Ohio Citizens for Responsible Energy, Inc. ("OCRE") to submit by April 23, 1990 the contention which it intended to litigate. The Board stated that it wished to have OCRE's contention in hand before it ruled whether OCRE had standing to request a hearing.

On April 23, 1990, OCRE submitted its proposed contention and set forth the reasons why it believed that the proposed contention complied with the requirements of 10 C.F.R. § 2.714(b)(2).

On May 1, 1990, the Licensing Board issued its Memorandum and Order (Scheduling Responses to OCRE's Contention), requesting responses by the Licensees and the Staff to OCRE's contention.

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Licensees are not at this time setting forth their substantive response to OCRE's proposed contention. Such response would be premature. Rather, we have interpreted the Licensing Board's May 1 Memorandum and Order to call for the Licensees' and Staff's views on whether OCRE's proposed contention meets the requirements of 10 C.F.R. § 2.714. Only if OCRE is found to have standing and if the Licensing Board agrees that the contention is admissible would the Board establish a schedule for briefs to be filed on OCRE's legal issue. See, 10 C.F.R. § 2.714(e).

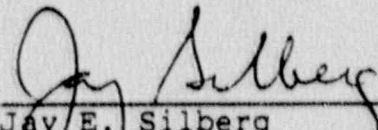
Licensees agree that OCRE's proposed contention meets the requirements of 10 C.F.R. § 2.714(b)(2), and as indicated by OCRE, raises a purely legal issue. However, Licensees continue to believe that no contention can be admitted unless the party seeking to litigate that contention establishes that it has the requisite standing. For the reasons previously set forth in Licensees' March 23, 1990 Answer to OCRE's Petition For Leave To Intervene and Request for Hearing, Licensees respectfully submit that OCRE has failed to make that showing. Therefore, it is irrelevant whether OCRE's proposed contention meets the requirements of 10 C.F.R. § 2.714(b)(2).

For the reasons set forth above and in Licensees' March 23, 1990 Answer, the Licensing Board should deny OCRE's Petition for Leave to Intervene and Request for Hearing.

Respectfully submitted,

Shaw, Pittman, Potts & Trowbridge
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By:



Jay E. Silberg
Counsel for Licensees

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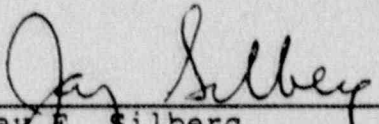
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| |) | |
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| Unit No. 1) |) | |
| |) | |

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Licensees' Answer to Ohio Citizens for Responsible Energy, Inc. Contention were mailed, postage prepaid, this 9th day of May 1990 to those listed on the attached Service List.



Jay E. Silberg
Counsel for Licensees

May 9, 1990

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