

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

November 3, 1981

DOCKETED  
USAPC

Before the Atomic Safety and Licensing Board

In the Matter of )

CLEVELAND ELECTRIC ILLUMINATING )  
COMPANY, Et Al. )

(Perry Nuclear Power Plant, )  
Units 1 and 2) )

'81 NOV -6 P2:16

Docket Nos. 50-440  
50-441  
(Operating License)

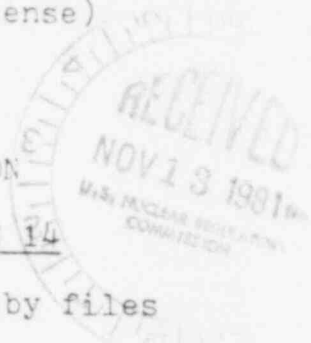
OHIO CITIZENS FOR RESPONSIBLE ENERGY' PETITION  
FOR WAIVER OF COMMISSION REGULATION 10 CFR  
SECTION 50.13 AND RESUBMISSION OF ITS CONTENTION 14

Ohio Citizens For Responsible Energy ("OCR") hereby files this this petition for waiver of Commission regulation 10 CFR Section 50.13, entitled "Attacks and destructive acts by enemies of the United States; and defense activities." Section 2.758(b) of the same chapter governs this petition and its disposition. OCR will first discuss the purposes for which the regulation was adopted and then describe the special circumstances with respect to the subject matter of the above-captioned proceeding such that application of that regulation would not serve those purposes.

The Purposes For Adoption Of Section 50.13

A short horse is curried soon. The Statement of Consideration issued by the Commission when it promulgated Section 50.13 (32 F.R. 13445 (September 26, 1967); and ASLB Order of October 2, 1981 on EMP/ATWS at 3, 4) stated "that reactor design features to protect against the full range of the modern arsenal of weapons are simply not practicable...." (Emphasis supplied.) 'Practicable' means: "capable of being done, effected, or put into practice, with the

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available means; feasible." Random House College Dictionary (1973) at 1040.

Clearly it is not practicable, if possible at all, to design a nuclear generating station to withstand the brutal force and temperature extremes of a direct nuclear blast. It was with this recognition that the commercial nuclear industry was exempted from dealing with design concerns, such as hostile acts directed against a facility, for which no measure of protection was practicable.

### The Special Circumstances

It may be entirely practicable to protect against the brief but potentially disastrous effects of EMP. See Science News, (May 16, 1981) at 314-315; Letter from L. Douglas DeNike, to Voss M. Moore, on NUREG-0659, April 22, 1981. As Dr. DeNike pointed out, all that is necessary to protect against EMP is a "relatively inexpensive changeover from solid-state to vacuum-tube technology." The Licensing Board's observations in its Memorandum to the Commission (October 7, 1981) also suggest that a defense might indeed be practicable. OCRE amplifies those observations.

How costly and how practicable the incorporation of an EMP defense into the PNPP design is a matter properly susceptible to discovery.

### Conclusions

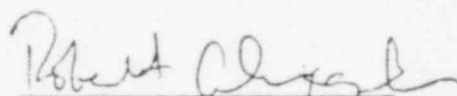
The purposes for which Section 50.13 was adopted will not be served in this proceeding due to the special circumstances

present, as alleged by this Intervenor; those circumstances being that the remedy available to the Applicant to design against the effects of EMP may be entirely practicable. The theme behind Section 50.13 is not served by perpetuating its exemption with regard to EMP.

Furthermore, the only barrier to the admission of OCRE Contention 14 (See OCRE's Motion for Leave to File Its Contention 14, July 6, 1981.) was Section 50.13. ASLB Order of October 2, 1981 on EMP/ATWS at 6. Should the Board grant the requested waiver of Section 50.13, as it should properly do in light of the foregoing, no obstacles exist to admission of OCRE Contention 14.

OCRE prays that this Licensing Board waive Section 50.13 for the duration of this proceeding and that it deem admissible thereby OCRE Contention 14.

Respectfully submitted,



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attached : Affidavit of Robert Alexander