

DOCKETED  
USNRC  
July 31, 1982

Peter B. Bloch, Chairman  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

'82 AGO -4 P1:03  
OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH *emp*

Dr. Jerry R. Kline  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Mr. Frederick J. Shon  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Re: Cleveland Electric Illuminating Co. et al.  
Perry Nuclear Power Plant, Docket Nos.  
50-440/441 OL

Dear Administrative Judges:

Ohio Citizens for Responsible Energy ("OCRE") would like to respond to the comments made by counsel for Applicants in two recent letters to the Licensing Board.

In their July 28, 1982 letter Applicants allege that intervenors are "misusing" their reply briefs to Staff and Applicant answers to motions to file new contentions.. Applicants regard the inclusion in the reply briefs of new data or arguments in support of late-filed contentions as somehow improper. OCRE absolutely disagrees with this position.

In the example cited, Sunflower's Psychological Stress Survey, the intervenor was merely replying to the only substantive argument raised by Applicants opposing the psychological stress contention, i.e., that no evidence of stress around Perry had been presented. This is what is required of intervenors by the Licensing Board's August 4, 1981 Procedural Order. Using the Psychological Stress Survey to refute Applicants' arguments was a reasonable response.

Obviously reply briefs are of little use if intervenors are only allowed to reiterate the arguments made in the original motion. Applicants seem to be objecting to the right of intervenors to file these reply briefs, a right granted by the August 4, 1981 Procedural Order. The proper time to object to this Order was shortly after its issuance, not now, a year later. Also, to allow parties to file responses to reply briefs, as Applicants suggest, would make the process too cumbersome and dilatory.

B208050363 B20731  
PDR ADDOCK 05000440  
G PDR

*SUB*

Judge Bloch  
Judge Kline  
Judge Shon  
Page 2  
July 31, 1982

In their July 19, 1982 letter Applicants refer to OCRE's "Notice of Intent to File New Contentions Based on the SER," dated July 6, 1982. In that filing, OCRE was not implying that the criteria of 10 CFR 2.714 regarding late-filed contentions should be suspended. Rather, OCRE was merely protecting its rights, in view of the misleading date on the SER and the fact that certain parties have an extremely stringent interpretation of what is timely. In addition, OCRE was attempting to comply with the Licensing Board's suggestion that the parties set schedules for the filing of new contentions, the close of discovery, discovery period on new contentions, etc.

Sincerely,

*Susan L. Hiatt*

Susan L. Hiatt  
OCRE Representative  
8275 Munson Rd.  
Mentor, OH 44060  
(216) 255-3158

cc: Service List