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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

SECRETED  
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'94 FEB 16 P3:30

Before Administrative Judges:

Thomas S. Moore, Chairman  
Dr. Richard F. Cole  
Dr. Charles N. Kelber

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

SERVED FEB 16 1994

In the Matter of

Docket No. 50-440-OLA-3-R

THE CLEVELAND ELECTRIC  
ILLUMINATING COMPANY, et al.

ASLBP No. 93-683-02-OLA-3-R

(Perry Nuclear Power Plant,  
Unit 1)

February 16, 1994

ORDER

In our December 27, 1993 order admitting a contention and establishing a schedule, we reserved final judgment on the question whether the licensees should file a cross motion for summary judgment on the admitted contention until intervenors' motion for summary disposition had been filed. Having now reviewed the intervenors' motion and held a brief telephone conference with the parties, we conclude that the most appropriate and efficient procedure for resolving the admitted contention is for the licensees to file a cross motion for summary disposition. That motion should be supported fully with appropriate affidavits and other evidentiary material. It should also respond fully (including affidavits, if appropriate) to each of the Board

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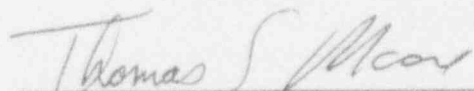
questions in the December 27, 1993 order. The licensees, of course, are free to combine their answer to the intervenors' motion with their cross motion. The licensees' filing shall be filed by March 9, 1992.

In the telephone conference, the staff indicated that it planned only to file an answer to the intervenors' summary disposition motion. That staff answer also should respond fully (including affidavits, if appropriate) to each of the Board questions in the December 27, 1993 order. The staff's answer shall be filed by March 2, 1994.

The intervenors shall file an answer to the licensees' cross motion for summary disposition within twenty-one (21) days of the filing of the licensees' motion. Should the intervenors wish to file a reply to the staff's answer, that reply shall be combined with their answer to the cross motion.

It is so ORDERED.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD



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Thomas S. Moore, Chairman  
ADMINISTRATIVE JUDGE

Bethesda, Maryland

February 16, 1994

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

THE CLEVELAND ELECTRIC ILLUMINATING  
COMPANY, ET AL.  
(Perry Nuclear Power Plant, Unit 1)

Docket No.(s) 50-440-OLA-3

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER DATED 2/16/94 have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
Thomas M. Moore, Chairman  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
Richard F. Cole  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

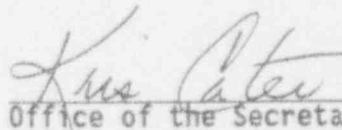
Administrative Judge  
Charles N. Kelber  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Colleen P. Woodhead, Esq.  
Office of the General Counsel  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Jay E. Silberg, Esq.  
Shaw, Pittman, Potts & Trowbridge  
2300 N Street, N.W.  
Washington, DC 20037

Susan L. Hiatt  
Petitioner Pro Se and  
Ohio Citizens for Responsible Energy  
8275 Munson Road  
Mentor, OH 44060

Dated at Rockville, Md. this  
16 day of February 1994

  
Office of the Secretary of the Commission