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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Before Administrative Judges:

Peter B. Bloch, Chairman
Dr. Jerry R. Kline
Mr. Frederick J. Shon

SERVED OCT 12 1982

In the Matter of

Docket Nos. 50-440-OL
50-441-OL

CLEVELAND ELECTRIC ILLUMINATING
COMPANY, et al.

(Perry Nuclear Power Plant, Units 1 & 2)

October 8, 1982

MEMORANDUM AND ORDER
(Concerning Economic Cost Contention)

On August 9, 1982, Ohio Citizens for Responsible Energy (OCRE) moved for permission to late-file a contention concerning "Inadequate Consideration of Economic Consequences of Accidents" in the Draft Environmental Statement (DES) for the Perry Nuclear Power Plant (Perry). Since the relevant sections of the Final Environmental Statement (FES), which has since been issued, are similar to the DES, we will consider the contention to relate to the FES.

This is a late-filed contention that must meet the requirements concerning good cause for late filing. 10 CFR §2.714(a)(1). However, largely because OCRE relies on a recently published study (NUREG/CR-2591) as the basis for its contention, we have determined that this requirement is met. We discuss our reasons for this determination below.

The regulatory requirement that most directly affects the validity of this late-filed contention is the Statement of Interim Policy, "Nuclear Power Plant Accident Considerations Under the National Environmental Policy Act," 45 Fed. Reg. 40101 (June 13, 1980). The Statement requires:

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Events or accident sequences that lead to [radioactive] releases shall include but not be limited to those that can reasonably be expected to occur. . . . Socioeconomic impacts that might be associated with emergency measures during or following an accident should also be discussed.

Id. at 40103.

OCRE contends that the FES is deficient because it failed to include an assessment of the economic and societal disruption which would occur as a result of an accident at Perry. It uses NUREG/CR-2591, "Estimating the Potential Impacts of a Nuclear Reactor Accident," prepared by the Department of Commerce for the Nuclear Regulatory Commission, to establish that there is available a systematic method for evaluating economic and social disruption and points out that the relevant section of the FES, § 5.9.4.1.4.4, gives only a cursory description of the economic impacts of accidents. (Unlike the Cleveland Electric Illuminating Co., et al., (applicant) we do not consider OCRE's contention to relate only to the failure of the FES to consider the single accident scenario reviewed in NUREG/CR-2591. We interpret OCRE as intending us to consider whether that document provides: (1) a method that should be used, and (2) one example of the use of that method.)

Our review of FES §5.9.4.1.4.4 persuades us that OCRE is in error when it asserts that only a "cursory" treatment has been given to economic consequences of serious accidents. The section describes the use of a complex model to generate a probability/consequence function, presented in Figure 5.8, "Probability distribution of mitigation cost."

However, neither the challenged section nor the filings of the parties shows that a satisfactory method of considering indirect economic effects, similar to that used in NUREG/CR-2591, was used or even considered. As applicant has pointed out, the approach used in the FES is different from that of the NUREG/CR, which estimates economic effects by using an input/output rather than a direct cost approach. Applicant's Answer to OCRE Motion for Leave to File Its Contention 20 (August 31, 1982) at 7. As OCRE

pointed out in its response, the NUREG/CR "analyzes important factors not considered in the [F]ES, e.g., the effect on the larger American economy (in terms of lost vital industries)." OCRE Response at 4.

It is a possible implication of OCRE's contention that the entire probability/cost function in the FES's Figure 5.8, "Probability distribution of mitigation measures cost", should be moved upward and to the right (higher costs at each level of probability) because economic effects such as unemployment have not been properly considered. We have no way of knowing how far the curve might need to be moved, and we therefore do not know how much effect this consideration might have on the overall cost/benefit balance concerning the operation of Perry. (This lack of information also prevents us from following applicant's suggestion and merely amending the FES to accommodate OCRE's contention. Applicant's Answer at 14.)

Good Cause for Late Filing

Both the Staff of the Nuclear Regulatory Commission and the applicant contend that the DES was issued in March 1982 and that the DES's alleged failure to consider economic effects should have been apparent to OCRE at that time--prior to the issuance of the NUREG/CR that OCRE assigns as its good cause for late filing. Although there is some truth to this assertion, we consider it to be an inadequate reason for rejecting this late-filed contention. The publication of the NUREG/CR, which is an authoritative discussion of a method of accounting for previously unanalyzed economic costs, might represent an advance in the application of input/output analysis to nuclear power plants. None of the parties has argued that the technique of the NUREG/CR had been previously applied to nuclear power plants.

Although careful perusal of the DES, armed with the expert knowledge of available economic modeling techniques, might have permitted OCRE to spot the deficiency it now alleges, we do not think so high a standard is to be expected of public intervenors. It is enough that OCRE keep up with current expert literature, as it has recently demonstrated that it is capable of

doing. LBP-82-53, 15 NRC _____ (July 12, 1982), slip op. at 4-5. Consequently, we find that OCRE has shown good cause for late filing. 10 CFR §2.714(a)(1)(i).

We also find that there are no other means now available by which petitioner can protect its interest. Since it was required to comment on the DES prior to the issuance of the NUREG/CR, the opportunity to comment on the DES was not an adequate means to protect its interest, in light of the new information available to it. 10 CFR §2.714(a)(1)(ii).

Our review of OCRE's filings on this contention persuades us that it has demonstrated its competence and its understanding of this issue. We find that it can be expected to assist in developing a sound record. 10 CFR §2.714(a)(1)(iii).

There is no reason to believe that OCRE's interest in this contention would be represented by existing parties. 10 CFR §2.714(a)(1)(iv).

Although this is an additional issue in this proceeding, we do not believe that inclusion of the issue will cause substantial delay. Hence, we find that 10 CFR §2.714(a)(1)(v) is somewhat adverse to admission of the contention.

On balance, after considering the five factors governing the filing of late contentions, we find that the preponderance of the considerations involved favors admitting OCRE's contention.

O R D E R

For all the foregoing reasons and based on consideration of the entire record in this matter, it is this 8th day of October, 1982,

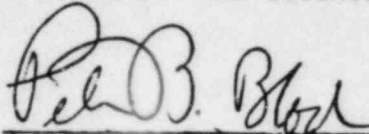
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- (1) The following issue is admitted into this proceeding:

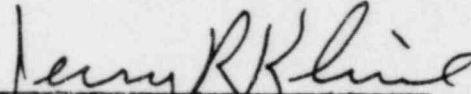
Issue #12. The Final Environmental Statement for the Perry Nuclear Power Plant is deficient because it has not adequately considered the economic effects of serious nuclear accidents, using a technique similar to that used in NUREG/CR 2591.

- (2) Ohio Citizens for Responsible Energy is the lead intervenor on Issue #12.

FOR THE
ATOMIC SAFETY AND LICENSING BOARD



Peter B. Bloch, Chairman
ADMINISTRATIVE JUDGE



Jerry R. Kline,
ADMINISTRATIVE JUDGE



Frederick J. Shon
ADMINISTRATIVE JUDGE

Bethesda, Maryland