

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
CLEVELAND ELECTRIC ILLUMINATING)	Docket No. 50-440 OL
COMPANY, <u>ET AL.</u>)	50-441 OL
(Perry Nuclear Power Plant,)	
Units 1 and 2))	

NRC STAFF'S RESPONSE TO APPLICANT'S MOTION
TO AMEND SCHEDULE

I. INTRODUCTION

On September 16, 1982 the Licensing Board adopted a schedule that identifies target dates for major milestones in the proceeding up to and including commencement of the evidentiary hearing.^{1/} That schedule presently calls for discovery on issues other than Issues 1 and 8 to be completed by November 15, 1982 and for direct testimony to be filed approximately two weeks prior to commencement of the hearing.^{2/} By motion dated September 21, 1982 the Applicants have requested that the Licensing Board amend the schedule: (1) to establish September 30, 1982 as the date for completion of discovery on Issues 1 and 8, and (2) to extend the period between the filing of direct testimony and the commencement of the hearing from two to three weeks.^{3/}

1/ "Memorandum and Order (Concerning Scheduling)" dated September 16, 1982.

2/ Id. at 2.

3/ "[Applicants'] Motion to Amend Memorandum and Order (Concerning Scheduling) of September 16, 1982" dated September 21, 1982.

For the reasons discussed below the NRC Staff does not object to the granting of the Applicants' motion for extension of the period between the filing of testimony and the commencement of the hearing.^{4/}

II. DISCUSSION

Because the Applicants believe that -- owing to the time likely to be required for mailed testimony to be received -- insufficient time would be available for preparation [of cross-examination and rebuttal testimony] in the period now provided between the filing of written testimony and the commencement of the hearing, they have requested that the period be extended to twenty one days -- either by advancing the target date for the filing of written testimony or by delaying the target date for the commencement of the hearing. The NRC Staff does not object to the requested lengthening of the period between the filing of written testimony and the commencement of the hearing and believes there are other matters as well that could impact on the date for the start of the hearing. The Licensing Board also may wish to consider those matters in revising the target date for the start of the hearing. For example, the current schedule does not provide for a settlement conference for the purpose of eliminating contentions or portions of contentions shown by discovery not to be important or supportable as was encouraged by the

^{4/} The matter of the deadline for completion of discovery on Issues 1 and 8 was dealt with by Chairman Bloch in telephone calls to the parties shortly after the Licensing Board received its copies of Applicants' motion. Therefore, only that portion of the motion requesting extension of the period of time between the filing of testimony and the commencement of the hearing will be addressed in this response.


Commission in its Statement of Policy on Conduct of Licensing Proceedings, CLI-81-8, 13 NRC 452, 456 (1981), or for the prehearing conference following completion of discovery that is mandated by 10 CFR 2.752.

In the view of the Staff fairness to all parties requires the scheduling of such conferences and efforts to more sharply focus on the exact issues that remain in controversy. This could result not only in more concise summary disposition pleadings but also in more efficient development of a record on the issues that survive for hearing.

III. CONCLUSION

For the reasons discussed above the Staff does not object to the granting of the Applicants' motion for extension of the period between the filing of testimony and the start of the hearing.

Respectfully submitted,



James M. Cutchin, IV
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 5th day of October, 1982

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO MOTION OF OHIO CITIZENS FOR RESPONSIBLE ENERGY TO COMPEL DISCOVERY OF THE STAFF AND APPLICANTS" and "NRC STAFF'S RESPONSE TO APPLICANT'S MOTION TO AMEND SCHEDULE", dated October 5, 1982 in the above-captioned proceeding, have been served on the following by deposit in the United States mail, first class, or as indicated by an asterisk through deposit in the Nuclear Regulatory Commission's internal mail system, this 5th day of October, 1982:

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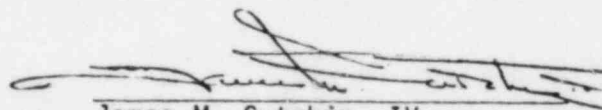
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