

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD '82 NOV 16 P12:26

Before Administrative Judges:

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

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

SERVED NOV 16 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)

November 15, 1982

MEMORANDUM AND ORDER

(Concerning Motion to Submit a Late-Filed Shift Rotation Contention)

On September 10, 1982, Sunflower Alliance Inc., et al., (Sunflower) moved to late-file a contention that would seek to require Cleveland Electric Illuminating Company (applicant) to design its shift schedules for the Perry Plant in conformity with "circadian principles", requiring forward shift rotation and comparatively less frequent shift changes. The basis for the contention was furnished by a Science News article (July 31, 1982 at 69) that contains, among other things, a statement by Charles Ehret, a biologist at Argonne National Laboratory in Illinois, that:

at least half the power plants are rotating their workers the wrong way, causing sleep deprivation and dangerous desynchronization.

In response, applicant and staff have attempted to show that this is not a new issue by citing several articles appearing prior to the Science News article. They also argue that Sunflower has not shown any special expertise on this issue, especially as it did not even analyze the Science article that was discussed in the Science News article they cite. They therefore claim that there is insufficient cause for late filing.

(Staff also argues that this is an improper challenge to NRC regulations. Applicant argue that intervenors have not shown a nexus to the Perry

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facility. Happily, we need not address these arguments, as we are deciding this issue on other grounds.)

We have decided that, on balance, the criteria for late filing in 10 CFR §2.714(a)(1) are not met. The Science News article does not constitute sufficient cause for late filing a contention about such a basic proposition as the likelihood that shift rotations may cause people to be tired and to make mistakes. As applicant has pointed out, industrial psychologists have been aware of that general proposition, which is common knowledge, for decades. The only new information in Science News is the theory that "circadian rhythms" may help to account for fatigue factors. But Sunflower has not even reviewed the literature to show that this one new twist represents a significant departure from previously available information. It has not discussed the underlying data to show the strength of the supposed relationship nor the basis for believing that it is linked to nuclear plant safety. Indeed, it has done nothing more than photocopy a single article and to discuss its content.

Considering criteria (i) and (iii) (good cause and ability-to-assist in the development of a sound record) together (as they seem to us to be related in this instance) we find that these two criteria weigh heavily against the admission of this contention. The delay criterion, considering the stage of the case at which the contention was filed, also weighs somewhat against. Although the other criteria are somewhat favorable to admissibility, the overall balance is adverse to Sunflower and the contention shall not be admitted.

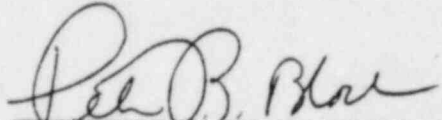
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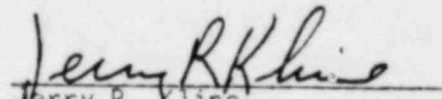
For all the foregoing reasons and based on consideration of the entire record in this matter, it is this 15th day of November, 1982,

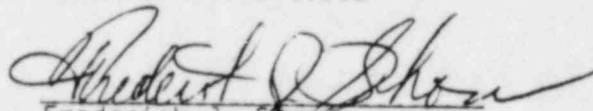
ORDERED

Sunflower Alliance Inc., et al.'s Motion to Submit an Additional Contention, filed on September 10, 1982, is denied.

FOR THE
ATOMIC SAFETY AND LICENSING BOARD


Peter B. Bloch, Chairman
ADMINISTRATIVE JUDGE


Jerry R. Kline,
ADMINISTRATIVE JUDGE


Frederick J. Simon
ADMINISTRATIVE JUDGE

Bethesda, Maryland