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Re: The Cleveland Electric Illuminating
Co. (Perry Nuclear Power Plant, Units
1 and 2) Docket Nos. 50-440 and 50-441

Gentlemen:

On November 23, 1982, a conference call took place in this proceeding to discuss certain discovery and scheduling matters. Participating in the call were Chairman Bloch, Ms. Hiatt for OCRE, Mr. Wilt for Sunflower, Mr. Cutchin for the Staff, and the undersigned for Applicants. At the Chairman's request, I have prepared this memorandum of the call. I have reviewed it with Mr. Cutchin, Mr. Wilt and Ms. Hiatt. They agree that it accurately reflects the substance of the conference call.

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Applicants initiated the conference call in order to clarify the filing schedules for answers to the Staff's motions for summary disposition. Mr. Wilt had informed Applicants on November 22 that he would be requesting a 10-day extension (until December 3) to respond to the summary disposition motion on Issue 3. Ms. Hiatt had also discussed with the Staff the possibility for an extension of time (until December 15) to respond to the summary disposition motion on Issue 4. Because of the inherent delay if motions for these extensions were to be filed and answered in the normal course, Applicants believed that a conference call would be the most expeditious means of establishing the schedules. Applicants stated that they would not oppose the extensions of time if good cause were shown. Chairman Bloch stated that good cause for the extensions would have to be shown for the extensions to be granted.

The discussion of Sunflower's requested extension involved three interrelated motions: Sunflower's motion to extend the time for responding to the Issue 3 summary disposition motion, its motion to extend the time for filing a motion for litigable issues on Issue 3, and its motion to obtain additional discovery on Issue 3 from the Staff.

The Chairman and the parties agreed that the Staff's summary disposition motion in effect removed the need for a motion for litigable issues. The discussion then focused on the discovery motion. The Staff stated that it had responded to all discovery relating to the February 1978 stop work order, which the Staff understood to be the scope of Issue 3. Mr. Wilt stated that his understanding of prior Board orders allowed discovery that was unrelated to the February 1978 stop work order. The Chairman stated that, while the scope of discovery on Issue 3 was broad, it did not extend to the entire quality assurance program for Perry. There must be some nexus to the stop work order. Since Mr. Wilt did not identify any interrogatories which met that test and were not answered by the Staff, the Chairman ruled that the Staff's voluntary discovery responses were adequate. The Chairman therefore denied Sunflower's discovery motion. The Staff and Applicants were requested to prepare a draft order reflecting that denial.

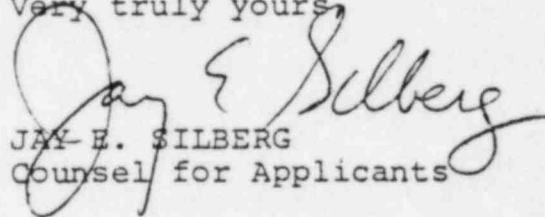
The Chairman then set December 3 as the date for responses to the Staff's Issue 3 summary disposition motion. However, the Chairman stated that Sunflower's response must be in the Board's hands by that date. The Chairman also stated that if Sunflower could not handle the workload in a timely fashion, the Board may have to follow the lead of the licensing board in the Byron proceeding and take steps to pare down Sunflower's contentions.

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With respect to OCRE's requested extension to respond to the Issue 4 summary disposition motion, Ms. Hiatt stated that she was facing the obligation of responding to summary disposition motions on Issues 4, 5 and 7, Applicants' motion for directed certification, and a possible summary disposition motion on Issue 12. Ms. Hiatt stated that she needed an extension of time only with respect to the Issue 4 summary disposition motion. She stated that OCRE could respond to the Issue 5 summary disposition motion before the December 6 due date. After Applicants indicated that they might not be able to file their answer to the Issue 5 summary disposition motion as early as OCRE could, it was agreed that answers to that motion would be due on the date that Applicants would file. The Chairman granted OCRE's motion to extend the deadline for Issue 4 to December 15.

Further discussion took place concerning the need for a pre-hearing conference and on Applicants' pending motion to provide a longer interval between the filing of testimony and the start of the evidentiary hearing. The Chairman and the parties agreed that these matters should be postponed until the Board has had the opportunity to consider the summary disposition motions and the responses to those motions.

Very truly yours,


JAY E. SILBERG
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UNITED STATES OF AMERICA

DOCKETED
USNRC

NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board ⁶² NOV 30 A11:36

In the Matter of : :)
)
THE CLEVELAND ELECTRIC)
ILLUMINATING COMPANY)
)
(Perry Nuclear Power Plant,)
Units 1 and 2)

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BRANCH
Docket Nos. 50-440
50-441

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