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October 20, 1982  
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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of	)	
	)	
THE CLEVELAND ELECTRIC	)	Docket Nos. 50-440
ILLUMINATING COMPANY	)	50-441
	)	
(Perry Nuclear Power Plant,	)	
Units 1 and 2)	)	

APPLICANTS' ANSWER TO OHIO CITIZENS  
FOR RESPONSIBLE ENERGY MOTION TO  
EXTEND DISCOVERY ON ISSUE #9

On October 15, 1982, Ohio Citizens for Responsible Energy ("OCRE") filed a motion to extend discovery on Issue #9 (polymer degradation). The motion is addressed to discovery from both Applicants and the Staff. With respect to discovery from Applicants, OCRE requests that the deadline for filing discovery requests be extended until November 1, 1982. As justification for the portion of the motion directed to Applicants' discovery, OCRE appears to suggest that Applicants have failed to give OCRE prompt access to documents cited in response to OCRE's interrogatories. OCRE misstates the facts.

OCRE filed its first set of interrogatories on Issue #9 on August 30, 1982, some six weeks after the Licensing Board admitted the issue. Applicants filed their answers on September 14, 1982

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-- six days before Applicants' response was due.<sup>\*/</sup> Not until Friday afternoon, October 8, 1982 -- twenty-four days after Applicants filed their response -- did Ms. Susan Hiatt, OCRE's interim representative, attempt to contact Mr. Ronald Wiley to arrange for examination of the documents cited in Applicants' response. Ms. Hiatt was informed that Mr. Wiley was on vacation that day, but would be in the office on October 12, the next working day. Mr. Wiley tried to get back to Ms. Hiatt on October 12 and 13, but was not able to contact her until the morning of October 14. At that time, Mr. Wiley and Ms. Hiatt arranged to have the documents examined by OCRE on October 24.

It is plain that if there was any negligence in providing OCRE prompt access to the documents, the fault lies with OCRE and not Applicants. Ms. Hiatt waited over three weeks before calling Mr. Wiley to arrange a date for examining the documents. After being told that Mr. Wiley was unavailable, OCRE made no attempt to contact Applicants' counsel (or anyone else) to identify an alternate in Mr. Wiley's absence. It is difficult to take seriously OCRE's complaint that it has been unfairly prejudiced in its ability to file follow-up interrogatories, when OCRE made no attempt to contact Applicants about inspecting the documents until one week prior to the October 15 discovery cut-off date.

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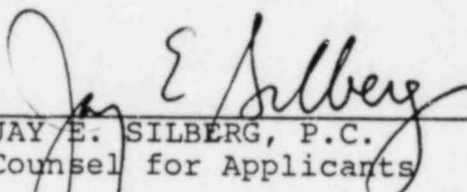
<sup>\*/</sup> Applicants response was due on September 20, 1982.

Had it acted with reasonable diligence, OCRE would have had more than sufficient time to review the documents and file follow-up interrogatories prior to the discovery cut-off date. There is no justification for extending the discovery cut-off date to November 1, 1982.\*/ Accordingly, the motion to extend discovery should be denied.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

BY:

  
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JAY E. SILBERG, P.C.  
Counsel for Applicants

1800 M Street, N.W., Suite 900 South  
Washington, D.C. 20036 ..  
(202) 822-1063

DATED: October 20, 1982

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\*/ OCRE also complains that the NRC staff has failed to answer OCRE's interrogatories. This is a matter between OCRE and the Staff. There is no reason, however -- and OCRE identifies none -- why the Staff's alleged failure to respond would justify extending the discovery cut-off date as to Applicants.

October 20, 1982

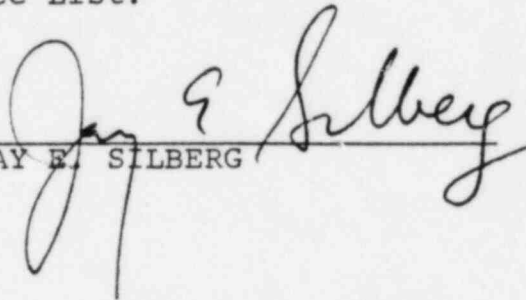
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CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing "Applicants' Answer to Ohio Citizens for Responsible Energy Motion to Extend Discovery on Issue #9" were served by deposit in the United States Mail, First Class, postage prepaid, this 20th day of October, 1982, to all those on the attached Service List.

  
JAY E. SILBERG

DATED: October 20, 1982

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Peter B. Bloch, Chairman  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dr. Jerry R. Kline  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

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Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

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Atomic Safety and Licensing  
Appeal Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

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Atomic Safety and Licensing  
Appeal Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Gary J. Edles, Esquire  
Atomic Safety and Licensing  
Appeal Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Atomic Safety and Licensing  
Appeal Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Docketing and Service Section  
Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

James M. Cutchin, IV, Esquire  
Office of the Executive  
Legal Director  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Ms. Sue Hiatt  
OCRE Interim Representative  
8275 Munson Avenue  
Mentor, Ohio 44060

Daniel D. Wilt, Esquire  
Post Office Box 08159  
Cleveland, Ohio 44108

Donald T. Ezzone, Esquire  
Assistant Prosecuting Attorney  
Lake County Administration Center  
105 Center Street  
Painesville, Ohio 44077

John G. Cardinal, Esquire  
Prosecuting Attorney  
Ashtabula County Courthouse  
Jefferson, Ohio 44047

Terry Lodge, Esquire  
915 Spitzer Building  
Toledo, Ohio 43604