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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)

OHIO EDISON COMPANY)

(Perry Nuclear Power Plant, Unit 1,)
Facility Operating License)
No. NPF-58))

THE CLEVELAND ELECTRIC ILLUMINATING)
COMPANY)

THE TOLEDO EDISON COMPANY)

(Perry Nuclear Power Plant, Unit 1,)
Facility Operating License)
No. NPF-58))

(Davis-Besse Nuclear Power Station,)
Unit 1, Facility Operating License)
No. NPF-3))

Docket No. 50-440-A
50-346-A

(Suspension of
Antitrust Conditions)

ASLBP No. 91-644-01-A

APPLICANTS' ANSWER TO CLEVELAND'S
MOTION TO AMEND THE SCHEDULE FOR
SUMMARY DISPOSITION MOTIONS

On January 16, 1992, the City of Cleveland filed a Motion requesting the opportunity to submit a reply to the answer that Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (collectively "Applicants") will file to a cross motion for summary disposition by Cleveland on

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the issues of res judicata, collateral estoppel, laches and law of the case. Applicants have no objection to that request.^{1/}

Respectfully submitted,

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Counsel for Ohio Edison Company

Dated: January 24, 1992

Mi/0214/006DBC.92

^{1/} For the record, Applicants would like to make clear that their concurrence with Cleveland's request should not be interpreted as a concurrence with various characterizations in Cleveland's pleading, e.g., "that Applicants have essentially defaulted" on Cleveland's procedural issues. Cleveland Motion at 3; see also proposed Order submitted by Cleveland at 2 ("Applicants' failure to address the [second legal] issue"). The Licensing Board's schedule specifically anticipated parties other than the Applicants might file cross-motions, and provided for their filing on March 9. It also anticipated a subsequent answer by Applicants to the cross motions, due on April 27. In short, Applicants' approach has been fully consistent with the sequence of filings specified by the Licensing Board. Furthermore, it would be highly irregular, if not bizarre if, as Cleveland appears to suggest was the case, Applicants had been required to anticipate motions by their opponents and file a response thereto before ever seeing the motions. Applicants suspect that the truth of the matter is that through oversight, Cleveland did not earlier request the opportunity to reply to answers to its cross-motion. This is not a grievous mistake, and Applicants have no objection to Cleveland's belated request.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of January, 1992, a copy of the foregoing Applicants' Answer to Cleveland's Motion to Amend the Schedule for Summary Disposition Motions was served by first class mail postage prepaid on each of the following:

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