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October 9, 1984
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USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE,
BRANCH

In the Matter of)
CLEVELAND ELECTRIC ILLUMINATING)
COMPANY, ET AL.)
(Perry Nuclear Power Plant,)
Units 1 and 2))

Docket No. 50-440 OL
50-441 OL

NRC STAFF RESPONSE TO APPLICANTS'
MOTION FOR SPECIFICATION OF A CREDIBLE
ACCIDENT SCENARIO UNDER ISSUE #8

I. INTRODUCTION

Issue #8, which challenges the adequacy of Applicants' means of hydrogen control, was admitted for litigation in this proceeding in 1982.^{1/} Subsequently, the Board deferred ruling on a request for specification of a hydrogen-generating accident which would support litigation of Issue #8 on the basis that a new hydrogen control rule was expected in the near future.^{2/} By Motion dated September 18, 1984, Applicants ask that the intervenor now be required to specify a credible hydrogen-producing accident necessary to support litigation of Issue #8 because plant

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- 1/ Memorandum and Order (Concerning Late-Filed Contentions: Quality Assurance, Hydrogen Explosion and Need for Increased Safety of Control System Equipment), LBP-82-15, 15 NRC 55 (1982)
 - 2/ Memorandum and Order (Applicants' Answer to Procedural Motion Concerning Hydrogen Control), unpublished, March 31, 1983.

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completion is approaching, no new hydrogen control rule has been issued, and the new rule cannot be expected soon. The Staff supports the Applicants' motion as discussed below.

II. BACKGROUND

Because issue #8, when admitted, was not supported by a specific description of an accident which would support litigation of measures for hydrogen control in excess of those required by 10 CFR § 50.44, the Staff, by motion of February 8, 1983^{3/} asked the Board to establish a deadline for submitting this accident description. The Staff asked that the intervenor be required to identify a "TMI-2 type LOCA scenario for Perry that [intervenor] OCRE contends would cause core damage, generation of large amounts of hydrogen, hydrogen combustion, containment breach or leakage and offsite doses greater than 10 CFR 100 guideline values and that OCRE intends at the hearing to demonstrate to be credible in order to require hydrogen control measures in addition to the recombiners that are being installed to comply with 10 CFR § 50.44," citing Metropolitan Edison Company (Three Mile Island Nuclear Station, Unit No. 1), CLI-80-16, 11 NRC 674, 675-676 (1980).^{4/} The Board denied the Staff's motion to establish a deadline for submission of a scenario on the basis that a new hydrogen control rule would soon be issued which would effect the contention.^{5/} The Board also deferred ruling on a motion by intervenor

^{3/} "NRC Staff Motion For A Deadline By Which OCRE Must Specify The Scenario To Be Litigated Under Issue #8," February 8, 1983

^{4/} Id. p. 3.

^{5/} Memorandum and Order, March 3, 1983, unpublished.

to reword the contention and to obtain the Board's advice on the method of describing an accident sufficient to support litigation of issue #8, as well as a request for a particularized scenario contained in Applicants' response to the intervenor's motion.^{6/} The Board stated that rulings would be deferred on these matters until the NRC issued the hydrogen control rule or the Board was informed that issuance of the rule was deferred and no longer imminent.^{7/}

III. DISCUSSION

Applicants' motion asserts that fuel load is scheduled for Unit 1 of the Perry plant in mid-1985 so that further indefinite deferral of specification of a hydrogen control scenario which will allow litigation of Issue #8 is no longer reasonable. Motion, p. 4. Staff agrees that the particular accident scenario required to support litigation of issue #8 should now be provided by OCRE in accord with the Commission's direction in Three Mile Island, supra. The Commission set out the condition for admitting contentions asserting the need for hydrogen control measures in excess of the requirements of 10 CFR § 50.44. The condition established is a determination that an accident scenario exists which could result in a breach of containment and radiological releases in excess of the values in 10 CFR Part 100 due to a hydrogen explosion. Three Mile Island, supra, at 675. OCRE has not provided such a particularized scenario nor has the Board determined that such

^{6/} Id. pp. 2-3

^{7/} Id. p.3

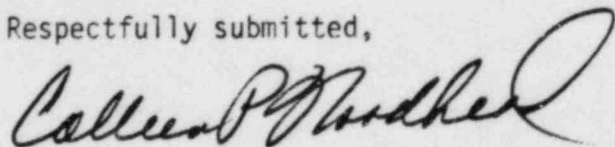
an accident sequence is credible at the Perry reactor. Thus, until or unless OCRE provides the required supporting basis for issue #8, it is not clear whether there is a properly admitted hydrogen control contention to be litigated in this proceeding.

As to the new hydrogen control rule, the Staff's proposed final rule has not yet been sent to the Commission for its review,^{8/} so that it is not possible to predict the date of issuance. In light of the long delay in promulgation of the rule, and the approaching completion date of Unit 1 at the Perry site, it seems prudent to now initiate the procedures currently necessary under Commission caselaw to establish a litigable contention on hydrogen control.

IV. CONCLUSION

For the reasons stated above, the Board should require OCRE to define the particular postulated accident which would support litigation of hydrogen control measures asserted necessary beyond those required in 10 CFR § 50.44.

Respectfully submitted,



Colleen P. Woodhead
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 9th day of October, 1984

^{8/} Mr. Morton Fleishman, RES, informed Staff Counsel that the latest revision of the rule might be submitted to the Commission for its consideration within the next few weeks.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO APPLICANTS' MOTION FOR SPECIFICATION OF A CREDIBLE ACCIDENT SCENARIO UNDER ISSUE #8" 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, by deposit in the Nuclear Regulatory Commission's internal mail system, this 9th day of October, 1984:

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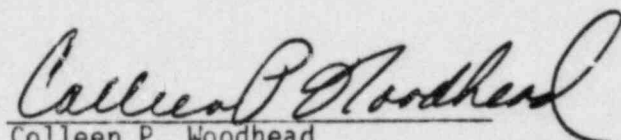
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