

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the matter of )

THE TOLEDO EDISON COMPANY AND THE )  
CLEVELAND ELECTRIC ILLUMINATING )  
COMPANY )  
(Davis-Besse Nuclear Power Station, )  
Unit No. 1 )

Docket No. 50-346

EXEMPTION

I.

The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees) hold Facility Operating License No. NPF-3, which authorizes operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility), at power levels not in excess of 2772 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensees' site in Ottawa County, Ohio. The license provides, among other things, that the licensees are subject to all rules, regulations and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II.

10 CFR 50.54(q) requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of 10 CFR Part 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.1 of Appendix E requires each licensee to conduct a full-scale emergency preparedness exercise at least annually to include the full or small-scale participation of State and local governments within the plume exposure pathway Emergency Planning Zone (EPZ).

On September 28, 1983, the Federal Emergency Management Agency (FEMA) issued, in final form, a new rule (44CFR350) which established policy and procedures for the review and approval by FEMA of State and local emergency plans and preparedness for coping with the offsite effects of radiological emergencies at nuclear power plants. Section 350.9 of FEMA's rule states that State and local governments with nuclear power plants within their boundaries shall fully participate in a joint exercise with the nuclear power plant licensee at least every two years. A provision is included for remedial exercises to demonstrate that deficiencies identified in previous joint exercises have been corrected.

An Information Notice, No. 84-05, entitled "Exercise Frequency", was issued on January 16, 1984 to bring to the attention of all licensees this change to a biennial exercise requirement for State and local governments as specified in the FEMA rule. The Information Notice stated that licensees should continue to follow the current annual exercise frequency requirements as stated in NRC's regulations and that they conform with the FEMA rule by specific request for exemption from the NRC requirement.

By letter dated April 11, 1984, the licensees requested that an exemption be granted from the offsite government participation requirements of Section IV.F.1.a of Appendix E for the July 31, 1984, exercise to be held at the Davis-Besse Nuclear Power Station. The licensees base this request for

exemption on the previous successful participation of Ottawa County and the State of Ohio in the April 1983 exercise at the Davis-Besse Station. The licensees assert that all major elements in the governmental emergency plans at Davis-Besse were performed satisfactorily in 1983 and that another exercise involving these agencies at Davis-Besse is not needed until 1985. To support this, the licensees point to a recent FEMA determination (FEMA Region V All-State Letter, ASL 71-83, dated December 27, 1983) that the State of Ohio and Ottawa County are eligible to exercise biennially. In addition, the licensees note that Ottawa County is in the process of constructing a new Emergency Operations Center which will not be functional until early 1985; therefore, the next full-scale exercise involving Ottawa County should be held after the EOC is functional.

The NRC staff has reviewed the 1983 exercise results. Although deficiencies were identified by FEMA involving State and local governments, FEMA determined that the State and county demonstrated an overall capability to protect the health and safety of the public. Based on FEMA's evaluation and determination of adequacy in off-site emergency preparedness, the NRC staff has determined that the State and county demonstrated an adequate capability to respond effectively to nuclear power station emergency conditions, and agrees that a full-scale exercise involving State and local governments is not necessary. Furthermore, the staff agrees that a better test of Ottawa County response would occur if their participation were delayed until the new EOC is functional. Moreover, the staff notes that the State of Ohio is participating fully at the Perry Nuclear Power Plant exercise in November 1984.

Based on the above, the staff has concluded that non-participation by State and local government agencies in the July 31, 1984, emergency preparedness exercise for the Davis-Besse Nuclear Power Station will not adversely affect the overall state of emergency preparedness at the Davis-Besse site and that a better test of Ottawa County response would occur if their participation were delayed until the new EOC is completed. Therefore, the requested exemption from the requirements of 10 CFR 50, Appendix E, Section IV.F.1.a, should be granted.

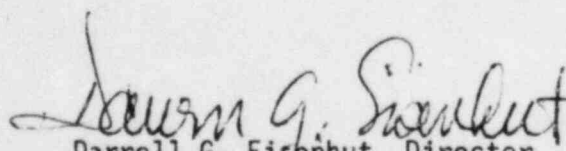
III.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption requested by the licensees' letter of April 11, 1984, is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. The Commission hereby grants to the licensees an exemption from the requirements that State and local government agencies participate in the emergency preparedness exercise scheduled to be held at the Davis-Besse Nuclear Power Station during July 1984.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment (49 FR 30146).

This Exemption is effective upon issuance.

FOR THE NUCLEAR REGULATORY COMMISSION



Darrell G. Eisenhut, Director  
Division of Licensing  
Office of Nuclear Reactor Regulation

Dated at Bethesda, Maryland  
this 27th day of July, 1984.