

September 17, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)

CLEVELAND ELECTRIC ILLUMINATING)
COMPANY, Et Al.)

(Perry Nuclear Power Plant,)
Units 1 and 2))

Locket Nos. 50-440
50-441
(Operating License)

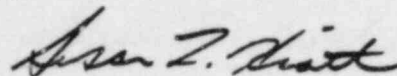
MOTION FOR ISSUANCE OF A SUBPOENA DUCES TECUM

Intervenor Ohio Citizens for Responsible Energy ("OCRE") hereby requests, pursuant to 10 CFR 2.720^{1/}, that the Licensing Board issue a subpoena

To the best of OCRE's information and belief, documents in the above category exist which pertain to the identity of witnesses or persons knowledgeable of the subject matter of Issues 8 and 16 in this proceeding. Thus, the requested documents are generally relevant to the proceeding, as required by 10 CFR 2.720(a) for the issuance of a subpoena.

An NRC subpoena form, filled out and awaiting the presiding officer's signature, is enclosed.

Respectfully submitted,

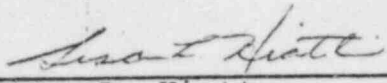


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1/ Although the language of 10 CFR 2.720(a) appears to contemplate the use of subpoenas for the production of testimony or evidence at a hearing, the Appeal Board in Pacific Gas and Electric Co. (Stanislaus Nuclear Project, Unit 1), ALAB-550, 9 NRC 683 (1979) ruled that 10 CFR 2.720 authorizes the issuance of a subpoena duces tecum for discovery purposes to a non-party. And, although Stanislaus concerned an anti-trust proceeding, the Appeal Board stated that its ruling would apply as well to a proceeding concerned with safety aspects of reactor construction or operation. See 9 NRC 693, footnote 14. There is good cause for seeking this discovery from a non-party, as OCRE just recently learned of the existence and relevance of the sought documents.

CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing were served by deposit in the U.S. Mail, first class, postage prepaid, this 18th day of September, 1984 to those on the service list below.


Susan L. Hiatt

* As indicated by fn 1 of Motion for In CAMERA Consideration

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