

UNITED STATES NUCLEAR REGULATORY COMMISSION

ORIGINAL

IN THE MATTER OF:

DOCKET NO: 50-440-OL
50-441-OL

THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, et al.

(Perry Nuclear Power Plants,
Units 1 and 2)

TELEPHONE CONFERENCE

LOCATION: WASHINGTON, D. C.

PAGES: 2084 - 2093

DATE: WEDNESDAY, MARCH 13, 1985

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of: :
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THE CLEVELAND ELECTRIC ILLUMINATING :
COMPANY, et al. : Docket No. 50-440-OL
: 50-441-OL
(Perry Nuclear Power Plants, :
Units 1 and 2) :
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Ace-Federal Reporters, Inc.
Suite 402
444 North Capitol Street, N.E.
Washington, D. C.

Wednesday, March 13, 1985

The telephone conference call in the above-entitled
matter commenced at 1:30 p.m.

BEFORE:

JUDGE JAMES P. GLEASON, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D. C.

JUDGE GLENN O. BRIGHT, Member
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D. C.

JUDGE JERRY R. KLINE, Member
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D. C.

1 APPEARANCES:

2085

2 On behalf of the Applicant:

3 JAY E. SILBERG, ESQ.
4 Shaw, Pittman, Potts & Trowbridge
5 1800 M Street, N.W.
6 Suite 900 South
7 Washington, D. C. 20036

8 On behalf of the Nuclear Regulatory
9 Commission Staff:

10 COLLEEN WOODHEAD, ESQ.
11 U. S. Nuclear Regulatory Commission
12 Washington, D. C.

13 On behalf of the Intervenor, Ohio
14 Citizens for Responsible Energy:

15 SUSAN HYATT, ESQ.

16 On behalf of Sunflower Fuel Alliance:

17 TERRY LODGE, ESQ.
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P R O C E E D I N G S

JUDGE GLEASON: This is a telephone conference concerning the operating license application proceeding for the Cleveland Electric Illuminating Company et al., and we're gathered here to announce the Board's decision with respect to some pending motions. Is everyone able to hear me all right? Please identify yourself.

MR. SILBERG: Jay Silberg of Shaw, Pittman, Potts & Trowbridge for the Applicants.

MS. WOODHEAD: Colleen Woodhead, counsel for Nuclear Regulatory Commission Staff.

MS. HYATT: Susan Hyatt for Citizens for Responsible Energy.

MR. LODGE: Terry Lodge for the Intervenors, Sunflower Fuel Alliance.

JUDGE GLEASON: All right. The Board wants to announce its decision with respect to some pending motions. And I will read them slowly so if you want to take them down you can, but we also will be sending out today -- and I'll send it the quickest mail service available -- a confirmation of our decision, so you should have that in the morning.

On motion for summary disposition, the Board grants the Applicant's motion for summary disposition of issue 1 the following contentions: B, C, G, H, I, O, DD, GG, JJ,

1 contention A except as to the issue of obtaining published
2 comments from state and local officials on evacuation time
3 estimates, and contention Q except as to the issue of
4 letters of comment on the availability of school buses
5 during emergencies.

6 VOICE: Letters of agreement.

7 JUDGE GLEASON: I'm sorry. There was a typo. I
8 appreciate your pointing that out.

9 Secondly, the Applicant's motion for summary
10 disposition of issue 15 is granted.

11 All right, now I'm going to read the motions that have
12 been denied: the Applicant's motion for summary
13 disposition of issue 1, contentions J, M, P, U, S, BB and
14 CC. Also the Board has denied the Applicant's motion for
15 summary disposition of issue 16.

16 The Board has granted the motion submitted by Ohio
17 Citizens for Responsible Energy to reword issue 8, but the
18 issue is changed to read as follows: "The Perry hydrogen
19 control system is inadequate to assure that large amounts
20 of hydrogen can be safely accommodated without a rupture
21 of its containment and a release of substantial quantities
22 of radioactivity to the environment."

23 MR. LODGE: Could you repeat that, please?

24 JUDGE GLEASON: "The Perry hydrogen control
25 system is inadequate to assure that large amounts of

1 hydrogen can be safely accommodated without a rupture of
2 the containment and a release of substantial quantities of
3 radioactivity to the environment." Due to this Board
4 decision, the Staff's motion for summary disposition of
5 issue 8 is moot and requires no action. The motion from
6 the Ohio Citizens for Responsible Energy for the
7 employment of a witness is denied, and the Board will file
8 its written explanation of the rules herein at a
9 subsequent date.

10 That is really all that constitutes the substance of
11 the Board's rulings at this time. As I indicated, I will
12 send out a confirmation of this today.

13 And that's really all that we had on our minds to
14 discuss at this point. Does anyone want to bring up
15 anything else? And mind you, we're not arguing the Board's
16 ruling at this time.

17 MR. SILBERG: Will the affirmatory order that
18 you're sending out have any explanation or it will just
19 relate which are denied and which are granted?

20 JUDGE GLEASON: It will be in essence what I've
21 just said. The explanations will come along at some
22 subsequent date.

23 MR. SILBERG: Do you have any idea as to when
24 that might occur?

25 JUDGE GLEASON: No, I don't. Any other

1 questions on that subject?

2 MR. SILBERG: No, sir.

3 MR. LODGE: I have one on another one. This is
4 Mr. Lodge. My question is are we going to be fine-tuning
5 the actual hearing schedule, since there are, as I see it,
6 a couple of issues that are still pending? I guess I'm
7 kind of concerned about an order of trial, the order in
8 which --

9 JUDGE GLEASON: That's a good question. I'm not
10 sure what you mean by "fine-tuning," but I think the way
11 we will proceed is we will proceed with the hearing, go as
12 scheduled on the emergency contention first, and then to
13 follow that with the issue 8 or contention 8. By that
14 time, the SER -- no, hold just a minute.

15 We'll go with contention 1, follow that with contention
16 16. By that time the SAR for contention 8 should be
17 issued, and then we'll proceed with that as the final
18 issue of the hearing. That is my kind of summary of where
19 we sit with respect to the proper way to proceed.

20 MR. SILBERG: This will occur continually?

21 JUDGE GLEASON: That's a question you kind of
22 have to ask yourself. I don't know how much testimony
23 you're going to put on, and we'll know more when we see
24 what the testimony is.

25 MS. WOODHEAD: Judge Gleason, do you intend to

1 hold to your March 22 date for filing testimony and the
2 April 9 date for hearing?

3 JUDGE GLEASON: Yes, ma'am.

4 MS. WOODHEAD: Any possibility of giving us a
5 little more time?

6 JUDGE GLEASON: Not for the parties. I mean we
7 can read the testimony the day before the hearing; but
8 it's up to you people, because you have to prepare your
9 cross-examination plans. So I would suggest if you want
10 to discuss that to do that among yourselves and get back
11 to me.

12 MS. WOODHEAD: All right.

13 JUDGE GLEASON: If you have any change to it, I
14 would like you to get back before this weekend is over. I
15 may be unavailable next week. I'm not sure.

16 MS. WOODHEAD: I will be happy to; I'll explore
17 that matter with the parties then. And does the Board
18 intend to hold tight to the April 9 date also?

19 JUDGE GLEASON: Yes, we do.

20 MS. WOODHEAD: All right. Now you mentioned
21 that you anticipate the SER availability on hydrogen
22 control by the time we're ready to litigate issue 8.

23 JUDGE GLEASON: All I said was that -- you know,
24 I think you had indicated that it would be available sometime
25 in the middle of April. That would bring us -- assuming

1 that the hearing takes the week that would tend to
2 coincide with that, but I can't -- I don't know when it's
3 going to come. Obviously the quicker we get the SER the
4 better off all of us are.

5 MS. WOODHEAD: Yes, I wondered if you were going
6 to wait for a hearing until the SER was out on this issue.

7 JUDGE GLEASON: Yes, I think so.

8 MS. WOODHEAD: Well, I don't have any more
9 questions.

10 JUDGE GLEASON: Anything from you, Mrs. Hyatt?

11 MS. HYATT: I guess I'll have to wait for your
12 explanatory order.

13 JUDGE GLEASON: You're going to have to speak
14 louder; I can't hear you.

15 MS. HYATT: I guess I'll have to wait for your
16 explanatory order. It might be useful for all of us. On
17 issue 16, has that been denied in its entirety for every
18 component that was addressed, or -- it's not exactly clear
19 what the scope of any testimony would have to encompass on
20 that issue.

21 JUDGE GLEASON: Issue 16 the motion has been
22 denied. You know, that contention is liable and can be
23 litigated. I'm not sure I understand what the point is
24 you're making that you have to look at the rationale of
25 the Board.

1 MS. HYATT: I just thought that would be most
2 useful for preparing for the case.

3 JUDGE GLEASON: I don't think that's the purpose
4 of the Board's motions on summary disposition. That's
5 just -- all that says is there's a material issue that you
6 know can be litigated, so the contention is wide open
7 whatever way you want to proceed with respect to it.

8 MS. HYATT: All right. As far as scheduling
9 goes, I think I would have to confer with some of the
10 parties on this. It would appear to me that the hearing
11 on all these issues within two or three weeks would be
12 rather tight and difficult, especially if new information
13 like the Staff SER would be coming in perhaps in the midst
14 of the hearing the first week.

15 JUDGE GLEASON: Well, you can make your own
16 decisions I don't want to comment. There's no reason that
17 we can see for us to delay the hearing. Mr. Lodge?

18 MR. LODGE: Yes?

19 JUDGE GLEASON: Any comments?

20 MR. LODGE: None other than I've already made.

21 JUDGE GLEASON: Mr. Silberg?

22 MR. SILBERG: No, sir. Thank you very much.

23 JUDGE GLEASON: All right, thank you all. That
24 concludes the conference.

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1 (Whereupon, at 1:45 p.m., the telephone
2 conference was concluded.)
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CERTIFICATE OF OFFICIAL REPORTER

This is to certify that the attached proceedings before the UNITED STATES NUCLEAR REGULATORY COMMISSION in the matter of:

NAME OF PROCEEDING: THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, et al.

(Perry Nuclear Power Plants,
Units 1 and 2)

TELEPHONE CONFERENCE

DOCKET NO.: 50-440-OL, 50-441-OL

PLACE: Washington, D. C.

DATE: Wednesday, March 13, 1985

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission.

(sig) *Kathie S. Weller / DSW*

(TYPED)

KATHIE S. WELLER

Official Reporter

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