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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

COMMISSIONERS:

'96 MAR -7 P4 21

Shirley Ann Jackson, Chairman  
Kenneth C. Rogers  
Greta J. Dicus

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DOCKET

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CLEVELAND ELECTRIC )  
ILLUMINATING COMPANY )  
 )  
(Perry Nuclear Power Plant, )  
Unit 1) )  
 )  
\_\_\_\_\_ )

SERVED MAR - 7 1996

Docket No. 50-440-OLA-3

CLI-96-4

ORDER

Pursuant to 10 C.F.R. § 2.786(b), the Cleveland Electric Illuminating Company (Cleveland Electric) has petitioned the Commission for review of Atomic Safety and Licensing Board order LBP-95-17, 42 NRC 137. The Licensing Board's order granted the motion for summary disposition submitted by intervenors Ohio Citizens for Responsible Energy, Inc. (OCRE) and Ms. Susan L. Hiatt, and terminated this proceeding. The intervenors oppose review of the decision. The NRC staff does not oppose review. The staff's position is that LBP-95-17 misinterprets NRC regulatory requirements and exceeds the scope of the proceeding.

The Commission has decided to grant review of LBP-95-17. The parties to the review proceeding shall be Cleveland Electric, the intervenors, and the NRC staff.

1. Within 30 days after service of this order, Cleveland Electric and the NRC staff may file their briefs, which shall be limited to 25 pages each.

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2. Within 30 days after service of Cleveland Electric's and the NRC staff's briefs, the intervenors shall file their responsive brief, which shall be limited to 35 pages.
3. Within 15 days after service of the responsive brief, Cleveland Electric and the NRC staff may file a reply brief, which shall be limited to 10 pages each.

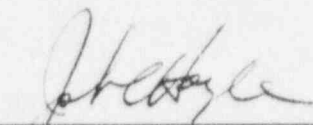
In addition to the arguments the parties choose to present, the Commission directs all parties to address the significance for this case of 5 U.S.C. §§ 551(8) and (9) (defining "license" and "licensing").

Any brief in excess of 10 pages must contain a table of contents, with page references, and a table of cases (alphabetically arranged), statutes, regulations, and other authorities cited, with references to the pages of the brief where they are cited. Page limitations on briefs are exclusive of pages containing a table of contents, table of cases, and of any addendum containing statutes, rules, regulations, etc.

It is so ORDERED.



For the Commission

  
\_\_\_\_\_  
John C. Hoyle  
Secretary of the Commission

Dated at Rockville, Maryland  
this 7<sup>th</sup> day of March, 1996.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of

THE CLEVELAND ELECTRIC ILLUMINATING  
COMPANY, ET AL.  
(Perry Nuclear Power Plant, Unit 1)

Docket No.(s) 50-440-OLA-3

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing COMMISSION ORDER (CLI-96-4) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

Administrative Judge  
Thomas M. Moore, Chairman  
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Administrative Judge  
Richard F. Cole  
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Susan L. Hiatt  
Petitioner Pro Se and  
Ohio Citizens for Responsible Energy  
8275 Munson Road  
Mentor, OH 44060

Dated at Rockville, Md. this  
7 day of March 1996

  
Office of the Secretary of the Commission