



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

April 12, 1996

Mr. Donald C. Shelton  
Acting Vice President Nuclear - Perry  
Centerior Service Company  
P. O. Box 97, A200  
Perry, OH 44081

SUBJECT: REQUEST FOR INFORMATION REGARDING "PETITION OF THE CITY OF CLEVELAND, OHIO FOR EXPEDITED ISSUANCE OF NOTICE OF VIOLATION, ENFORCEMENT OF LICENSE CONDITIONS, AND IMPOSITION OF APPROPRIATE FINES" (TAC NOS. M94588 AND M94589)

Dear Mr. Shelton:

The Nuclear Regulatory Commission (NRC) has received a "Petition of the City of Cleveland, Ohio For Expedited Issuance of Notice of Violation, Enforcement of License Conditions, and Imposition of Appropriate Fines" (Petition), dated January 23, 1996. The Petition, in part, requests that the NRC find that the Cleveland Electric Illuminating Company (CEI) is obligated to provide the wheeling and interconnection services as specified in the Petition and allegedly required by the Antitrust License Conditions that are a part of CEI's license for the Davis-Besse Nuclear Power Plant, Unit 1 and Perry Nuclear Power Plant, Unit 1.

To aid us in our evaluation of the Petition, we request that CEI address the bases for the issues raised in the Petition including, but not restricted to, the following: (1) that CEI violated Antitrust License Condition No. 3 by refusing to provide firm wheeling service to the Petitioner (City of Cleveland); (2) that CEI violated Antitrust License Condition Nos. 6 and 11 by entering into a contract to provide Toledo Edison Company with emergency power on a preferential basis; (3) that CEI violated Antitrust License Condition No. 2 by failing to offer the Petitioner a fourth interconnection point upon reasonable terms and conditions; and (4) that CEI violated Antitrust License Condition No. 2 by unreasonably burdening use of the existing interconnections through unilateral imposition of a \$75.00/KW-month "deviation charge."

We request that CEI responds to the above request for information within 20 days from receipt of this letter, and that a copy of this response is sent to the Petitioner at the same time it is submitted to the NRC.

As a matter of discretion, we intend to offer the Petitioner an opportunity for an informal public hearing concerning this matter. If the offer is accepted by the Petitioner, then we anticipate that the informal public hearing would be held within approximately 20 to 60 days following receipt of CEI's response to the above request for information. The location of any informal public hearing would be determined at a later time, and would follow a format similar to that explained in attachment 1. Also included for your information as attachment 2 is a copy of the NRC Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions." MD 8.11 was written primarily to address requests for enforcement action based on safety concerns.

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D. Shelton

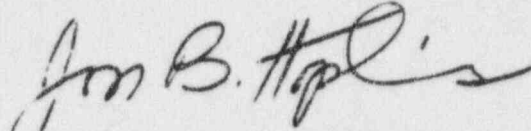
- 2 -

April 12, 1996

However, the framework of MD 8.11 is being followed for these antitrust issues that raise a regulatory concern.

Contact me if you have any questions.

Sincerely,



Jon B. Hopkins, Sr. Project Manager  
Project Directorate III-3  
Division of Reactor Projects - III/IV  
Office of Nuclear Reactor Regulation

Docket Nos. 50-346 and 50-440

Enclosures: 1. Draft informal hearing procedure  
2. NRC MD 8.11

cc w/encls: See next page

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The Honorable Robert V. Orosz  
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Davis-Besse Nuclear Power Station  
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cc:

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DRAFT INFORMAL HEARING PROCEDURE

- |   |                        |
|---|------------------------|
| 1. Petitioner's presentation            | 60 min.*               |
| Break                                   | 15 min.                |
| 2. Licensee's presentation              | 60 min.*               |
| Break                                   | 15 min.                |
| 3. Petitioner's concluding presentation | 30 min.*               |
| 4. Licensee's concluding presentation   | 30 min.*               |
| 5. Opportunity for public comment       | time determined by NRC |
| End of informal public hearing          |                        |

There will be no cross-examination or public questions; only the NRC staff will ask questions.

\* The allotted time includes time for NRC questions.