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September 10, 1979

Mr. Harold S. Denton
Director, Office of
Nuclear Reactor Regulation
U.S. Nuclear Regulatory
Commission
1717 H Street, N.W.
Washington, D. C. 20006



Re: The Toledo Edison Company, et al.
(Davis-Besse Nuclear Power Station,
Units 1, 2 and 3), Docket Nos. 50-346A,
50-500A, 50-501A, and
The Cleveland Electric Illuminating
Company, et al. (Perry Nuclear Power
Plants, Units 1 and 2), Docket Nos.
50-440A, 50-441A

Dear Mr. Denton:

We only recently received the Department of Justice's letter to you dated August 10, 1979, requesting the institution of a separate NRC proceeding to determine whether, as the Department alleges, the Cleveland Electric Illuminating Company ("CEI") has violated License Condition 3.

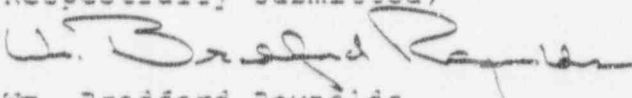
The charges made by the Department do not even begin to suggest a violation of License Condition 3. Contrary to the unsupported accusation of noncompliance, CEI has responsibly endeavored to negotiate transmission services that are acceptable to all interested parties, including the NRC. It has properly availed itself of the regulatory process in an effort to obtain approval of the proposed transmission, and, in so doing, has proceeded as expeditiously as possible.

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Significantly, the Department's letter makes no mention of a request of CBI by another entity to wheel power, let alone any refusal of such a request by CBI. Instead, the Department bases its position on an argument disenchanted with certain terms of CBI's proposed management contract, which is currently the subject of an appellate review proceeding before the Federal Energy Regulatory Commission ("FERC").

Whatever unthought disengagement the Department may have with the contract, such disengagement provides no legal basis for wheeling the electric power of the city utilities as requested by the applicant. Violation of FERC's Order No. 3, CBI's record as required to be filed in connection with the request of the other utilities, as required by FERC's Order No. 3. Moreover, this agreement has been submitted to the Governor of the State of New York ("GOV") in support of AMPTON's application for GOV power, and in these circumstances, GOV has been advised that the necessary arrangements have already been made to wheel GOV power to the City of Cleveland when and as it becomes available.

There is absolutely no reason for the NRC to proceed to the Department's request to initiate a proceeding pursuant to section 204 of the Atomic Energy Act, 42 U.S.C. § 2042, and section 2.205 of the NRC rules on which, 10 C.F.R. § 2.205. CBI has reviewed the request and is responsive to the NRC's Order Modifying Atomic Energy License Condition No. 3 of Davis-Besse Unit 1, License No. NUP-3, and Unit 2, CFR-146, CFR-149. That the NRC provides authority for the NRC to determine whether CBI is in compliance with license condition 3. In the unlikely event that it is determined to be necessary to conduct a compliance hearing on the subject, it is necessary to conduct a compliance hearing on the subject. Section 2.205(a) of the Commission's rules on the subject.

Respectfully submitted,

W. Bradford Reynolds
Counsel for the Cleveland
Electric Illuminating Company

RE: [illegible]
TO: [illegible]
FROM: [illegible]
SUBJECT: [illegible]