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January 20, 1988

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
CLEVELAND ELECTRIC)	Docket No. 50-440 OLA
ILLUMINATING COMPANY, <u>ET AL.</u>)	
)	
(Perry Nuclear Power Plant,)	
Units 1 and 2))	

NRC STAFF RESPONSE TO PETITION TO INTERVENE
FILED BY OHIO CITIZENS FOR RESPONSIBLE ENERGY

By Federal Register Notice (FRN) on December 11, 1987, the Commission advised the public that it is considering an application for an amendment to the license for the Perry Nuclear Power Plant, Unit 1 (PNPP) filed by Cleveland Electric Illuminating Company et al. (CEI or Licensee). 52 Fed. Reg. 47064. The proposed amendment would delete the provisions in the Technical Specifications of the license relating to the Main Steam Isolation Valve (MSIV) Leakage Control System (LCS). The specific sections to be deleted are Sections 3.6.1.4 and 4.6.1.4 and related bases. The FRN stated that by January 11, 1988 the licensee and any person whose interest may be affected by the proposed amendment and who wished to participate as a party to the proceeding could file a written petition for leave to intervene pursuant to 10 C.F.R. § 2.714 and request a hearing. By petition and affidavit dated January 7, 1988 Susan L. Hiatt on behalf of Ohio Citizens For Responsible Energy (OCRE) requested leave to intervene and a hearing in this proceeding. The NRC

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staff (Staff) does not oppose the petition and conditionally supports the request for hearing, as discussed below.

II. DISCUSSION

A. Standing to Intervene

As indicated in the FRN, to establish standing to intervene pursuant to 10 C.F.R. § 2.714(a), a petitioner must set out the particular interest in the proceeding, how that interest may be affected by the proceeding, and the reasons the intervention should be permitted. Particular reference should be made to (1) the nature of the petitioner's right to be made a party to the proceeding under the Atomic Energy Act of 1954, as amended (the Act), (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. In addition, a petitioner must identify the specific aspect(s) of the subject matter of the proceeding as to which the petitioner wishes to intervene. Not later than 15 days before the first prehearing conference, a petitioner must file a supplement to the petition to include a list of the contentions which are sought to be litigated pursuant to 10 C.F.R. § 2.714(b).

To establish organizational standing, a petitioner must demonstrate that the organization will be injured in a way that is not a generalized grievance shared by all or a large class of citizens. Transnuclear, Inc. (Ten Applications for Low-Enriched Uranium Exports to EURATOM member Nations), CLI-77-24, 6 NRC 525, 531 (1977); Portland General Electric Co. (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4

NRC 610, 613-14 (1976). An organization may establish standing as the representative of members who themselves have an interest that may be affected. Houston Lighting and Power Co. (South Texas Project, Units 1 and 2), ALAB-549, 9 NRC 644, 646-47 (1979); Public Service Co. of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-322, 3 NRC 328, 330 (1976). Residence of at least one member in close proximity to a facility standing alone, would establish such an interest. Virginia Electric Power Co. (North Anna Power Station, Units 1 and 2) ALAB-522, 9 NRC 54, 56 (1979).

B. Petition of Ohio Citizens For Responsible Energy

In her affidavit, Ms. Hiatt states that she resides in Mentor, Ohio, about 13 miles from PNPP; that she is a member of OCRE; that she is authorized by the OCRE membership to petition to intervene on their behalf. Affidavit at 1. In the petition, Ms. Hiatt states that OCRE is a private, nonprofit corporation specializing in issues of nuclear reactor safety and that OCRE's members live and own property within 15 miles of PNPP. Petition at 2. In addition the Petition states that OCRE's interest in this proceeding is the preservation of members' lives, health, livelihood, property, environment and the cultural, historic and economic resources of Northeast Ohio. Petition at 3. The effect of any order in this proceeding is stated to be a risk to OCRE's lives and property. Id. The specific aspect as to which OCRE wishes to intervene is the deletion of the Technical Specifications concerning the MSIVLCS. Petition at 4.

C. Staff Response

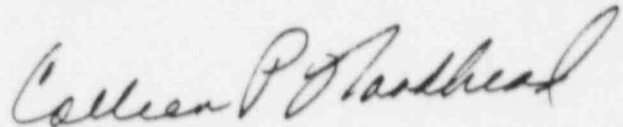
In the Staff's view, Ms. Hiatt has demonstrated standing for herself and OCRE members under North Anna, supra, by indicating residence

near PNPP and by alleging an adverse effect on the health and safety of the OCRE members if the proposed amendment is issued. Ms. Hiatt has established her authorization to represent OCRE and has identified the specific aspect of the subject matter of the proceeding as to which OCRE wishes to intervene. OCRE has not set out a specific issue for litigation, but since 10 C.F.R. § 2.714(a)(3) allows amendments to petitions up to fifteen days prior to the special prehearing conference, Ms. Hiatt may amend her petition to identify at least one litigable contention. Nevertheless, until this is done, OCRE may not be admitted as a party to any proceeding that may be held on this application since OCRE has not fully complied with the requirements of 10 C.F.R. § 2.714.

III. CONCLUSION

The Staff believes that Ms. Hiatt, as representative for OCRE has demonstrated the necessary interest or standing to intervene in this proceeding. However, OCRE must fully comply with the requirement to submit at least one litigable contention prior to admission as a party and prior to grant of hearing.

Respectfully submitted,



Colleen P. Woodhead
Counsel for NRC Staff

Dated at Rockville, Maryland
this 20th day of January, 1988

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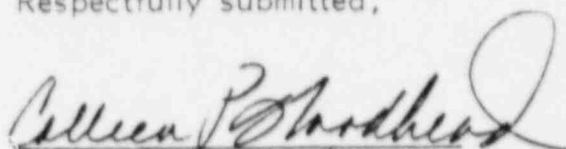
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NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney enters an appearance in the above-captioned matter. In accordance with § 2.713(b), 10 C.F.R., Part 2, the following information is provided:

Name: Colleen P. Woodhead
Address: U.S. Nuclear Regulatory Commission
Office of the General Counsel
Washington, D.C. 20555
Telephone Number: (301) 492-1525
Admissions: Supreme Court of Texas
U.S. Court of Appeals in the
District of Columbia
The Supreme Court of the
United States
Name of Party NRC Staff

Respectfully submitted,


Colleen P. Woodhead
Counsel for NRC Staff

Dated at Rockville, Maryland
this 21 day of January, 1988

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CERTIFICATE OF SERVICE

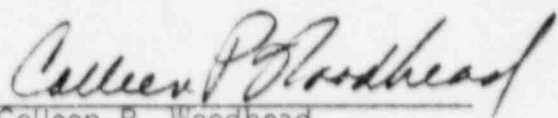
I hereby certify that copies of "NRC STAFF RESPONSE TO PETITION TO INTERVENE FILED BY OHIO CITIZENS FOR RESPONSIBLE ENERGY" and "NOTICE OF APPEARANCE" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, by deposit in the Nuclear Regulatory Commission's internal mail system, this 20th day of January, 1988:

Atomic Safety and Licensing Board Panel*	Donald T. Ezzone, Esq. Assistant Prosecuting Attorney 105 Mair Street Lake County Administration Center Painesville, Ohio 44077
U.S. Nuclear Regulatory Commission Washington, D.C. 20555	

Atomic Safety and Licensing Appeal Board Panel*	Susan Hiatt 8275 Munson Road Mentor, OH 44060
U.S. Nuclear Regulatory Commission Washington, D.C. 20555	

Docketing and Service Section* Office of the Secretary	John G. Cardinal, Esq. Prosecuting Attorney Ashtabula County Courthouse Jefferson, OH 44047
U.S. Nuclear Regulatory Commission Washington, D.C. 20555	

Jay Silberg, Esq. Shaw, Pittman, Potts and Trowbridge 1800 M Street, NW Washington, D.C. 20036	Janine Migden, Esq. Ohio Office of Consumers Counsel 137 E. State Street Columbus, OH 43215
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 Colleen P. Woodhead
 Counsel for NRC Staff