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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Commission

In the Matter of	)	
	)	
THE TOLEDO EDISON COMPANY and THE CLEVELAND ELECTRIC ILLUMINATING COMPANY (Davis-Besse Nuclear Power Station, Unit 1)	)	Docket No. 50-346A
THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, ET AL. (Perry Nuclear Power Plant, Units 1 and 2)	)	Docket Nos. 50-440A 50-441A
THE TOLEDO EDISON COMPANY, ET AL. (Davis-Besse Nuclear Power Station, Units 2 and 3)	)	Docket Nos. 50-500A 50-501A

APPLICANTS' MOTION FOR AN EXTENSION OF TIME WITHIN WHICH TO PETITION FOR REVIEW BY THE COMMISSION

On September 6, 1979, the Applicant utilities*/ in the above-captioned proceeding were served with a copy of the Atomic Safety and Licensing Appeal Board ("Appeal Board") decision (ALAB-560) affirming as modified the Initial Decision of the Atomic Safety and Licensing Board ("Licensing Board"). Pursuant to Section 2.786(b)(1) of the Commission's Rules of Practice, 10 C.F.R. § 2.786(b)(1) (1979), Applicants may file a petition for review with the Commission within fifteen days thereafter -- or

*/ These utilities are: The Cleveland Electric Illuminating Company, The Toledo Edison Company, Ohio Edison Company, Pennsylvania Power Company, and Duquesne Light Company.

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by September 21, 1979. Applicants respectfully move for a thirty-day extension of time within which to file such a petition. As grounds for this motion, Applicants state as follows:

1. ALAB-560 is a 314-page antitrust decision by the Appeal Board. It consists of a lengthy opinion by former Appeal Board member Mr. Sharfman, and a briefer majority opinion by Appeal Board members Messrs. Rosenthal and Salzman that in part concurs with and in part disagrees with the decision of Mr. Sharfman. The significance of ALAB-560 to the Commission's antitrust responsibilities is apparent from the face of the decision. As Messrs. Rosenthal and Salzman note, the instant proceeding is only the second full-fledged Licensing Board antitrust decision on the merits to come before the Appeal Board (slip op. at 5). Many of the issues raised on appeal -- as, for example, those dealing with relief -- are questions of first impression, and may well merit careful attention by the Commission.

2. However, given the breadth and complexity of the legal and factual issues raised by ALAB-560, and the fact that five utilities are involved in these three consolidated dockets, it is simply impossible for the Applicants to undertake a meaningful review of the matter within the fifteen days normally allotted by the Commission's Rules of Practice. Indeed, it is impossible for Applicants to determine whether they desire even to file a review petition with the Commission by September 21, let alone formulate and carefully inform the Commission of the grounds for review if that is deemed desirable.

3. Nor will the brief extension of thirty days now sought by the Applicants prejudice the rights of any other party to this proceeding. The license conditions formulated by the Appeal Board are effective immediately, and the Applicants have not sought a stay of those conditions. By allowing Applicants the necessary time within which to consider ALAB-560 and formulate the grounds for review if such review is eventually sought, the Commission will be better able to judge for itself the significance of this case Such assistance to the Commission by the parties to the proceeding -- especially when the record is as large and cumbersome as that here -- was a primary goal behind the Commission's decision to authorize review petitions. Thus, the interests of justice will be fully served by granting the requested extension of time.

WHEREFORE, the Applicants respectfully request the Commission to issue an order setting October 22, 1979, as the date by which any party seeking Commission review of ALAB-560 must file a petition for such review.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

Wm. Bradford Reynolds
Robert E. Zahler

Counsel for Applicants

Dated: September 19, 1979

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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	)	
THE TOLEDO EDISON COMPANY and	)	
THE CLEVELAND ELECTRIC ILLUMINATING COMPANY	)	Docket No. 50-346A
(Davis-Besse Nuclear Power Station, (Unit 1)	)	
	)	
THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, ET AL.	)	Docket Nos. 50-440A
(Perry Nuclear Power Plant, Units 1 and 2)	)	50-441A
	)	
THE TOLEDO EDISON COMPANY, ET AL.	)	
(Davis-Besse Nuclear Power Station, Units 2 and 3)	)	Docket Nos. 50-500A
	)	50-501A

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Applicants' Motion for an Extension of Time Within Which to Petition for Review by the Commission" were served upon each of the persons listed on the attached Service List, by hand delivering copies to those persons in the Washington, D. C. area, and by mailing copies, postage prepaid, to all others, all on this 19th day of September, 1979.

SHAW, PITTMAN, POTTS & TROWBRIDGE

By: Wm. Bradford Reynolds
Wm. Bradford Reynolds
Counsel for Applicants

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