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The Utility Radiological Safety Board of Ohio

Sent 4/30/90 FR

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May 31, 1990

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Mr. John H. Frye, III, Chairman
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

(1)

Re: Docket No. 50-440 - OLA-2
Fed. Reg. Vol. 55, No. 86, Page 18690
May 3, 1990 Notice

Dear Honorable Judge Frye:

The State of Ohio, acting through the Utility Radiological Safety Board of Ohio (URSB or Board), hereby submits the following comments regarding the above-referenced matter.

The Utility Radiological Safety Board is chaired by the Public Utilities Commission and is comprised of the Department of Agriculture, Department of Health, Department of Industrial Relations, the Adjutant General as Director of the Emergency Management Agency, and Environmental Protection Agency. The Board was established by the Ohio General Assembly to develop a comprehensive policy for the state regarding nuclear power safety. Our objectives are to promote safe, reliable and economic power, and to recommend policies and practices that promote safety, performance, emergency preparedness, and public health standards designed to meet the state's needs. Revised Code 4937.04(B)(2) provides the URSB with the authority to represent the State of Ohio or to submit comments in proceedings before the Nuclear Regulatory Commission.

It has come to our attention that the licensee has submitted an amendment to the license of the Perry Nuclear Power Plant (PNPP). The amendment would revise the Technical Specifications (TS) of the Perry operating license to remove cycle-specific parameter limits from the plant's technical specifications and place them in the Core Operating Limits Report (COLR) and record them in the Plant Data Book.

The requested amendment would remove from PNPP's TS the Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) and MAPLHGR Power and Flow Factor parametric curves, Minimum Critical Power Ratio (MCPR) and MCPR Power and Flow Factor parametric curves, Linear Heat Generation Rate

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The Utility Radiological Safety Board of Ohio - 180 E. Broad St. - Columbus, Ohio 43266-0573
Department of Agriculture - Department of Health - Department of Industrial Relations - Emergency Management Agency
Environmental Protection Agency - The Public Utilities Commission

(LGHR) and fuel design and associated bases. The licensee contends that implementation of the request will allow CEI to estimate end-of-cycle nuclear parameters at a later date in the cycle thus increasing the accuracy of predictions for the next operating cycle. In addition, the NRC will be relieved of the administrative burden of reviewing reload license amendments.

The URSB requests that the NRC consider these comments pursuant to 10 CFR 2.715(c). Currently, amendments to the operating license provide for state consultation pursuant to 10 CFR 50.91(b)(3) in determining whether the amendment involves significant hazards. Additionally, the state, as a member of the public whose interest may be affected by the proceeding, has the opportunity to intervene and request a hearing in such proceeding. 42 U.S.C. 2239(a)(1). If the licensee's petition is granted, modifications to the cycle-specific parameter limits would no longer require license amendments. Thus, the State of Ohio would no longer be afforded the opportunity of consultation provided by 10 CFR 50.91, or the opportunity to participate in the amendment process pursuant to 10 CFR 2.714.

The URSB recognizes the engineering efficiencies and administrative convenience that will accrue to the licensee with the granting of the application. On the other hand, the Board finds disturbing the possible precedent the application establishes in the erosion of the state's and, indeed, the public's participation and hearing rights guaranteed by the Atomic Energy Act of 1954 and subsequent amendments. The URSB urges the NRC to consider such action with caution, however bothersome state consultation and public access and participation might seem. Moreover, the URSB would encourage the NRC to propose procedures which maintain the opportunity for public participation while decreasing administrative burdens, enabling the licensee to operate with increased efficiency.

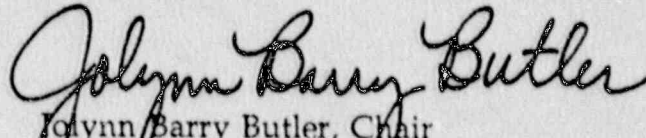
In addition to urging the NRC to develop the means to protect the goals of all the parties to these proceedings, the URSB contends that other steps should be taken to preserve the state's rights as defined in the Atomic Energy Act and as promulgated in the code of federal regulations. The state requests that the State Liaison Officer to the NRC be provided with a copy of Perry COLR documents, including mid-cycle revisions, issued in the future, and that the NRC make good faith efforts to consult with the state prior to NRC approval of the COLR, as similarly required by 10 CFR 50.91(b). Further, the URSB requests that the proposed PNPP technical specification 6.9.1.9, Core Operating Limits Report, be modified so that the State of Ohio is added to the list of parties to receive the COLR developed for each operating cycle and any mid-cycle revisions.

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In conclusion, the Ohio URSB urges the NRC to consider not only the administrative needs of the licensee, but also the public policy goal of maintaining appropriate public input. The URSB believes that it is possible and preferable to attempt to accommodate the interests of all the parties to this proceeding without eroding public participation and hearing rights currently guaranteed.

If further information is required of the URSB, please feel free to contact the URSB Secretary, Robert Moazampour, at (614) 466-0130.

Sincerely,


Jolynn Barry Butler, Chair
Ohio Utility Radiological Safety Board

JBB:MCR/jg

cc: Colleen Woodhead, Esq.
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