

April 28, 1983

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

Before the Atomic Safety and Licensing Board

In the Matter of)

CLEVELAND ELECTRIC ILLUMINATING)
COMPANY, Et Al.)

(Perry Nuclear Power Plant,)
Units 1 and 2))

Docket Nos. 50-440
50-441
(Operating License)

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MOTION TO STAY THE PROCEEDING PENDING A RULING ON OCRE'S MOTION
FOR SUMMARY DISPOSITION

Intervenor Ohio Citizens for Responsible Energy ("OCRE") is this day filing a motion for summary disposition of the OL application. If OCRE's motion is granted, this proceeding would be terminated. In an effort to prevent further unnecessary expenditures of time, money and effort by all parties, OCRE is hereby moving the Licensing Board to stay this proceeding pending a ruling on OCRE's motion for summary disposition.

In order for a stay to be granted, the four criteria of 10 CFR 2.788(e) must be considered. OCRE addresses these factors below.

Factor (1) concerns the likelihood of prevailing on the motion for summary disposition. OCRE believes that, as shown in that motion, the facts and the law are clear. It is likely that the motion for summary disposition will be granted.

Factor (2) questions whether the moving party will be irreparably injured absent a stay. OCRE believes that injury will occur if OCRE must continue to expend time, money, and effort on issues that will be rendered moot by a grant of the summary disposition motion. Such injuries are irreparable because these resources are finite and just compensation for them cannot be recovered, since the Commission has refused to implement the law passed by Congress known as the Equal Access to Justice Act

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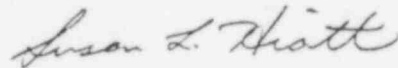
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(Public Law No. 96-481, 94 Stat. 2325 (1980)).

Factor (3) questions whether the stay would harm other parties. The answer to this question is negative, since the other parties (with the exception of Applicants and Staff - see below) find themselves in the same situation as OCRE.

Factor (4) concerns the public interest. The public interest is served by granting the stay. Since the public underwrites the litigation expenses of Applicants (through electric rates) and Staff (through tax dollars), the public interest is definitely served by staying the proceeding and saving the public's money for more profitable endeavors.

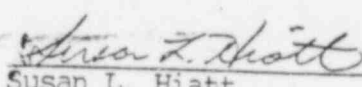
Respectfully submitted,



Susan L. Hiatt
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CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing MOTION TO STAY THE PROCEEDING PENDING A RULING ON OCRE'S MOTION FOR SUMMARY DISPOSITION were served by deposit in the U.S. Mail, first class, postage prepaid, this 28th day of April 1983 to those on the service list below.


Susan L. Hiatt

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