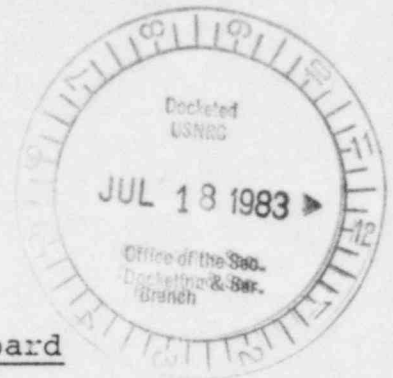


July 14, 1983



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of	)	
	)	
THE CLEVELAND ELECTRIC	)	Docket Nos. 50-440
ILLUMINATING COMPANY, <u>ET AL.</u>	)	50-441
	)	
(Perry Nuclear Power Plant,	)	
Units 1 and 2)	)	

APPLICANTS' MOTION FOR LEAVE TO FILE ANSWER TO  
OCRE'S AMENDED RESPONSE TO NRC STAFF'S  
MOTION FOR SUMMARY DISPOSITION OF ISSUE #13

On June 29, 1983, Intervenor Ohio Citizens for Responsible Energy ("OCRE") filed an "amended response" to the NRC Staff's ("Staff's") motion for summary disposition of Issue No. 13. OCRE's amended response was filed pursuant to the Licensing Board's June 27, 1983 request that OCRE provide greater specificity with respect to its request for additional time to respond to the Staff's motion. OCRE Amended Response at 1.

Since OCRE's amended response is in effect a motion for a continuance under 10 C.F.R. § 2.749(c), Applicants do not believe that the prohibition on "further supporting statements or responses" in 10 C.F.R. § 2.749(a) applies. Applicants do not wish to provide further substantive support for the Staff's motion for summary disposition. Applicants simply request an opportunity to refute

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the reasons stated in OCRE's amended response in support of its request for a continuance.

OCRE's amended response contains new factual material, raises new legal arguments, and makes a number of inaccurate factual and legal assertions concerning its request for a continuance. In its October 6, 1982 Memorandum and Order (Concerning Procedures for Late-Filed Contentions), at 3, the Licensing Board said:

The principle that a party should have an opportunity to respond is reciprocal. When applicant raises legal and factual issues in its response, intervenors may respond to those. When intervenor introduces material that is entirely new, we will permit applicant to respond. Due process requires an opportunity to comment.


The same due process principle applies here.

Pursuant to the Licensing Board's Memorandum and Order of October 6, 1982, Applicants move for leave to file an answer to OCRE's amended response of June 29, 1983. Applicants' answer is attached to this motion.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

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