

RELATED CORRESPONDENCE

March 28, 1984

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

'84 APR -2 AIO:44

Before the Atomic Safety and Licensing Board OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of )

CLEVELAND ELECTRIC ILLUMINATING )  
COMPANY, et al. )

Docket Nos. 50-440  
50-441  
(OL)

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

OCRE MOTION TO EXTEND THE DISCOVERY DEADLINE ON ISSUE #16

Intervenor Ohio Citizens for Responsible Energy ("OCRE") hereby moves the Licensing Board to extend the deadline for filing discovery requests on Issue #16, on Transamerica Delaval diesel generator reliability. In its December 23, 1983 Memorandum and Order (New Contention on Diesel Generators), the Board set April 6, 1984 as the last date for filing discovery requests on Issue #16. OCRE believes that the circumstances surrounding the issue are now such that the discovery deadline should be liberally extended. <sup>1/</sup>

The Board is certainly aware of voluminous information being compiled by the NRC Staff and by the utilities using TDI DGs; numerous Board Notifications have been issued since the admission of Issue #16. It is clear that the picture is far from complete, and that much more material will be produced and generated before this issue is near resolution.

<sup>1/</sup> Before filing this motion, OCRE attempted to negotiate with the parties so as to obtain a mutually acceptable agreement on the extension of discovery. The NRC Staff agrees with OCRE that discovery should be extended liberally. OCRE was unable to obtain an agreement with Applicants; this has necessitated the filing of the instant motion.

Similarly, OCRE has recently received from Applicants through discovery over 1800 pages of material on the Perry DGs. (This does not even represent all of the material available; OCRE understands that there are documents yet to be produced.) It is unreasonable to expect a public interest group with limited resources and personnel like OCRE to evaluate this extremely large amount of information and to formulate follow-up discovery based on these documents by April 6.<sup>2/</sup>

Furthermore, the curtailment of discovery on April 6 is neither necessary nor desirable for the expeditious conduct of this proceeding. Applicants will certainly not be harmed by the extension of discovery, as the Perry facility will not be operational for some time anyway. See February 24, 1984 letter from Applicants' counsel to the Licensing Board stating that Perry Unit 1 will not be complete until late 1985. In fact, this proceeding is likely to be impeded if the April 6 deadline is retained, as then the parties will be forced to burden the Board with requests for permission to file late discovery every time some new information (e.g., a Board Notification) becomes available.

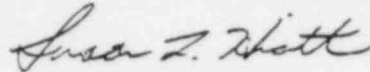
OCRE therefore would propose that discovery remain open until the NRC Staff issues its Safety Evaluation on the TDI DG Owners Group Design Review/Quality Revalidation Program (currently scheduled for May 15) and for a reasonable period of time (e.g., 2 weeks) thereafter. (OCRE believes that linking the deadline to the Staff's evaluation is preferable to setting a specific date so that it will not be necessary to re-establish the deadline should the Staff's evaluation be delayed.)

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<sup>2/</sup> OCRE has been diligent in conducting discovery; the first round of discovery on Issue #16 was filed on January 6, 1984. Applicants responded on February 8. Since then OCRE has been available practically every day to inspect (and to request copies) the documents requested of Applicants. Applicants first made the documents available for OCRE's inspection on March 3. Subsequent inspections were conducted on March 6, 10, 17, 24, and 27. Not all the documents have been produced. Clearly the delay in this matter cannot be attributed to the dilatory or negligent behavior of any party, but is merely indicative of the voluminous nature of the information involved.

OCRE prays that the Board grant this motion for the good cause shown.

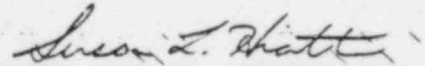
Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing were served by deposit in the U.S. Mail, first class, postage prepaid, this 29<sup>th</sup> day of March 1984 to those on the Service List.



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Susan L. Hiatt