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RELATED CORRESPONDENCE

August 14, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board ^{84 AGO 15 AM 1:15}

In the Matter of)

THE CLEVELAND ELECTRIC)
ILLUMINATING COMPANY, ET AL.,)

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

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Docket Nos. 50-440 ^{OL}
50-441 ^{OL}

APPLICANTS' ANSWER TO OCRE MOTION TO
REOPEN DISCOVERY ON ISSUE NO. 8

By motion of July 30, 1984, Intervenor Ohio Citizens for Responsible Energy ("OCRE") asks the Licensing Board to reopen discovery on Issue No. 8, concerning hydrogen control.^{1/} OCRE moves that:

1/ Discovery on this issue has been closed since September 30, 1982. See Tr. 753. Applicants' initial discovery responses on Issue No. 8 were filed on October 29, 1982. See Applicants' Answer to Ohio Citizens for Responsible Energy Fifth Set of Interrogatories to Applicants (October 29, 1982). Applicants filed supplemental answers to these discovery responses on February 29, 1984. See Applicants' Supplemental Answers to Interrogatories on Issue Nos. 6, 8 and 15 (February 29, 1984).

The Licensing Board has deferred ruling on an OCRE motion to reword Issue No. 8, and to establish standards and procedures for further litigation of the issue, pending a Commission rule-making on hydrogen control. See Memorandum and Order (Applicants' Answer to Procedural Motion Concerning Hydrogen Control) (March 31, 1984).

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1. discovery be opened for the purpose of submitting OCRE's Thirteenth Set of Interrogatories to Applicants, attached;
2. discovery be opened for the remainder of this year, subject to reopening upon a showing of good cause, since considerable filings and submittals from Applicants will be forthcoming in this period of time on Issue #8;
3. Applicants be required to serve directly upon OCRE their submittals on this issue so as to avoid unnecessary delay in propounding interrogatories based thereupon.

Motion to Reopen Discovery on Issue #8 (July 30, 1984), at 1.

In the interest of facilitating the proceeding, Applicants agree to make available to OCRE, at the time of submittal, copies of Applicants' future submittals to the NRC Staff relating to Issue No. 8.

While many of OCRE's Thirteenth Set of Interrogatories to Applicants appear to be untimely,^{2/} irrelevant,^{3/} or otherwise objectionable,^{4/} Applicants' counsel, Jay E. Silberg, has

^{2/} For example, Interrogatories 13-4 and 13-5 ask Applicants to identify all documents in their possession, custody or control relating to hydrogen control, including documents on which Applicants intend to rely for their defense on Issue No. 8. Such general interrogatories clearly could have been asked in OCRE's initial set of interrogatories on this issue.

^{3/} Interrogatory 13-38, for example, asks Applicants to identify any nonconformances in the construction of the PNPP containment vessel, a subject which is beyond the scope of Issue No. 8.

^{4/} One of the most obvious examples is Interrogatory 13-100, which requests Applicants to identify "any and all testimony, decisions, orders or conclusions in any other NRC proceeding on which Applicants to rely [sic], in whole or in part, for their defense on Issue #8."

arranged with OCRE Representative Susan L. Hiatt to meet on September 5, 1984, to discuss the interrogatories.

With respect to OCRE's request to reopen discovery on Issue No. 8 until December 31, 1984, Applicants are generally opposed to such blanket requests based on the Licensing Board's prior rulings containing requirements for conducting additional discovery. See Memorandum and Order (Motion to Reopen Discovery) (February 28, 1984), slip op. at 3; Memorandum and Order (OCRE Motion to Reopen Discovery) (December 20, 1983), slip op. at 1-3; Memorandum and Order (Concerning Request to Extend Discovery on Issue #1) (October 8, 1982), slip op. at 1. However, Applicants will discuss with OCRE at the September 5 meeting OCRE's specific discovery needs on this issue.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

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Dated: August 14, 1984

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CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing "Applicants' Answer to OCRE Motion to Reopen Discovery on Issue No. 8" were served by deposit in the United States Mail, First Class, postage prepaid, this 14th day of August, 1984, to all those on the attached Service List.

Michael A. Swiger
Michael A. Swiger

Dated: August 14, 1984

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