

APRIL 30, 1985

DOCKETED
USNRCUNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'85 MAY -2 P12:31

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

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

MOTION TO REOPEN THE RECORD ON ISSUE #16

Intervenor Ohio Citizens for Responsible Energy ("OCRE") hereby moves the Licensing Board to reopen the record on Issue #16 for the limited purpose of admitting into evidence the document attached hereto as Exhibit A.

The traditional standards for reopening the record are (1) that the motion be timely; (2) that it address significant issues; and (3) that a different result might be reached had the newly proffered material been considered initially. Pacific Gas and Electric (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-598, 11 NRC 876, 879 (1980).

However, this Licensing Board has questioned the applicability of these standards (particularly the last one) to motions to reopen filed prior to the issuance of an initial decision. August 18, 1983 Memorandum and Order (Motion to Reopen) at 2. Indeed, one cannot show that a different result

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might be reached if no result has yet been reached.

(Compare Carolina Power & Light (Shearon Harris Nuclear Power Plant, Units 1-4), LBP-78-2, 7 NRC 83, 85 (1978); the newly presented evidence need not always be so significant that it would alter the board's findings if the taking of the evidence can be accomplished with little or no burden upon the parties.)

Exhibit A is from the NRC's Weekly Information Report for the week ending March 22, 1985. It discusses a malfunction of the TDI DGS at Grand Gulf resulting from the breakage of a metal pin from a check valve in the air start system. Another check valve had a cracked pin near the point of failure. This event demonstrates the failure of the TDI Owners Group program to compensate for the substandard design and quality of the TDI engines. Hence, the new evidence is significant.

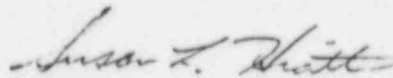
This motion is also timely. OCRE discovered the document in the Local Public Document Room on April 27, 1985. However, it should be noted that TDI had filed a 10 CFR Part 21 report on the matter on March 12, 1985. Thus, it must have been in the possession of Applicants and Staff prior to the April 9 evidentiary hearing. If Applicants and Staff had honored their discovery obligations, OCRE would have been able to present the document at the hearing. It is therefore clear that the delay in proffering this evidence is attributable to Applicants and Staff, not to OCRE.

(Compare Public Service Co. of New Hampshire (Seabrook Station, Units 1 and 2), ALAB-471, 7 NRC 477, 498 (1978); when a party

has relevant evidence within its control, but fails to produce it, it may be inferred that such evidence is unfavorable to it.)

It must be concluded that the motion is timely and that the proffered evidence is significant. Thus, this motion should be granted. OCRE prays that the Board is so moved.

Respectfully submitted,



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EXHIBIT A

ADDITIONAL PAGES - 2 - 1111 70 101770

ENCLOSURE 3

CASE NO. 1111 70 101770

Palo Verde, Units 1, 2 and 3

On March 15, 1985, Mr. E. Van Brunt, the Executive Vice President for Arizona Public Service Company (APS), informed us that the Board of Directors of APS has proposed a plan of restructure for the company.

In the present structure, APS has 6 wholly-owned subsidiaries. The new proposed structure will consist of a holding company (AZP Group) with APS and 3 of the previous entities not directly related to the utility business (Energy Development Co., Malapai Resources Co. and El Dorado Investment Co.) as its wholly-owned subsidiaries. The other 3 entities (APS Fuels Company, APS Finance Company, N.V., and Bixco, Inc.) will remain subsidiaries of APS. The initial Board of Directors of AZP Group will be the same as the current APS Board.

The proposed change will require approval by the IRS and a majority of the APS stockholders (annual stockholders meeting will be held on April 18, 1985).

Grand Gulf, Unit 1

A small piece of a metal pin (1" x 1/4" dia.) broken off of a check valve in the air start system caused the Division I emergency diesel generator to malfunction during a surveillance test.

The metal pin fragment was carried by the air to one of the cylinder air inlet valves, where it lodged between the valve disc and the seat, preventing the valve from closing. This allowed hot gases from the cylinder to get into the air start system resulting in the malfunction of the engine.

The licensee found the portion of the pin when it examined the air inlet valves after the malfunction. Examination of the other three check valves in the Division I air start system showed that one of the valves had a cracked pin on the disc which appeared to be near the failure point. The other two valve discs did not appear to have cracks in them. The discs from all four valves were replaced with new discs and the old discs were sent to the vendor for tests and examination to determine possible causes of failure.

The diesel generator manufacturer, Transamerica Delaval, Inc. issued a 10 CFR Part 21 report on this matter to the Office of Inspection and Enforcement on March 12, 1985. There are several plants that have the same design of check valves in the air start system.

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ENCLOSURE 3

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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 30th day of APRIL, 1985 to those on the service list below.

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