

U.S. NUCLEAR REGULATORY COMMISSIONDOCKET NOS. 50-440 and 50-346PERRY NUCLEAR POWER PLANT, UNIT 1DAVIS-BESSE NUCLEAR POWER STATION, UNIT 1ISSUANCE OF DIRECTOR'S DECISION UNDER 10 CFR § 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission (NRC), has issued the Director's Decision concerning the petition dated January 23, 1996, filed by David R. Straus, Esq., et al., on behalf of the City of Cleveland, Ohio, which owns and operates Cleveland Public Power (CPP or the City) for allegedly violating the antitrust license conditions applicable to the Perry Nuclear Power Plant, Unit 1, and the Davis-Besse Nuclear Power Station, Unit 1. Supplements to the Petition were filed on May 31 and August 13, 1996.

After consideration and careful review of the facts available to the staff and the decisions reached in parallel proceedings involving the same parties and similar issues before the Federal Energy Regulatory Commission (FERC), the Director has determined that the issues raised by the petitioner that could be remedied by the NRC have been addressed and resolved in the FERC proceedings so as to require no further action by the NRC. As a result, no proceeding in response to the Petition will be instituted. The reasons for this decision are explained in the "Director's Decision under 10 CFR § 2.206," (DD-96-15).

A copy of the Director's Decision has been filed with the Secretary of the Commission for Commission review in accordance with 10 CFR § 2.206(c). The Decision will become the final action of the Commission 25 days after issuance, unless the Commission on its own motion institutes review of the Decision within that time as provided in 10 CFR § 2.206(c).

Copies of the Petition, dated January 23, 1996, as supplemented May 31 and August 13, 1996, and the Notice of Receipt of Petition for Director's Decision under 10 CFR § 2.206 that was published in the Federal Register on March 8, 1996 (61 FR 9506), and other documents related to this Petition are available in the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for Perry Nuclear Power Plant (Perry Public Library, 3753 Main Street, Perry, Ohio) and Davis-Besse Nuclear Power Station (Government Documents Collection, William Carlson Library (Depository), University of Toledo, 2801 West Bancroft Avenue, Toledo, Ohio).

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in dark ink, appearing to read "Frank J. Draglia".

Frank J. Draglia, Acting Director
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland
this 17th day of October 1996.