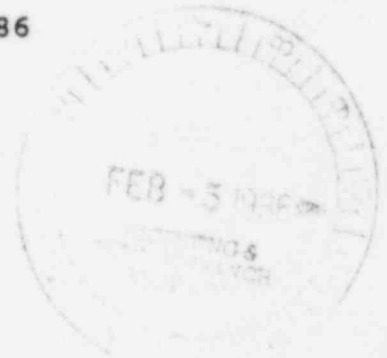


February 4, 1986

Honorable Chairman Nunzio Palladino  
Honorable Lando Zeh  
Honorable James Asseltine  
Honorable Thomas Roberts  
United States Nuclear Regulatory Commission  
Washington, D.C. 20555



Re: Petition pursuant to 10 C.F.R. 2.206  
Perry 1 & Perry 2

Dear Commissioners:

The Western Reserve Alliance (WRA) requests that the Nuclear Regulatory Commission (NRC) take immediate action to protect the public health and safety of Ohio, Pennsylvania, and Canadian residents through the following actions:

1. Require the complete and permanent closure of the Perry nuclear plants because of the Perry plants' inadequate seismic design. CEI and the NRC set the standards for the Perry plants' ability to withstand gravitational forces well below the actual gravitational forces that the plants are being subjected to during actual earthquakes. This was clearly demonstrated during the earthquake of January 31, 1986.
2. Require an independent design and construction verification program (IDVCP) to assess the integrity of the Perry One and Perry Two site quality assurance (QA) programs and its implementation because the Cleveland Illuminating Company (CEI) and its contractors have failed to implement an acceptable design and construction program for the Perry One and Perry Two nuclear plants that meet the requirements of 10 C.F.R. 50, Appendix B.
3. Review the Application before the Securities and Exchange Commission (SEC) of Centerior Energy Corporation (CEC) (formerly North Holding Company), which seeks, by its application, the SEC's approval to acquire all of the outstanding shares of the Cleveland Electric Illuminating Company (CEI) and Toledo Edison (TE), Ohio corporations, and approval of the related mergers by which the transactions will be effectuated.
  - a. WRA contends that the Application of CEC before

the SEC violates 10 C.F.R. 140 because it was created in a hasty and thoughtless manner in order to cover up severe financial problems faced by CEI and TE. It is WRA's contention that ultimately the application by CEC before the SEC will cause CEC, CEI and TE to be unable to meet the requirements of 10 C.F.R. 140 because they will be unable to provide financial protection of the licensees and other persons pursuant to to section 170 of the Atomic Energy Act of 1954 (68 Stat. 919), as amended.

- b. On June 25, 1985, when CEI filed Form 8-k filing before the SEC; on August 8, 1985, when CEC (North Holding Company) filed with the SEC an Application on Form U-1 under Section 10 of the Public Utility Holding Company Act of 1935; and on August 13, 1985 in proceedings before the Public Utilities Commission of Ohio (see WRA's Amplification to Motion to Intervene and Request for Hearings before the SEC, file No. 70-7149), CEC, CEI and TE had only a slight idea of how the reorganization would be implemented. Further WRA, in its original Motion to Intervene and Request for Hearings and in its Amplification before the SEC in the matter of Centerior Energy Corporation (CEC) (formerly North Holding Company, file No. 70-7149) WRA contends that CEC's Application contains factual falsehoods, unsupported allegations and speculations. WRA contends that this matter before the SEC will result in the violation of 10 C.F.R. 140 because of the financial danger it creates for the companies.

WRA has also raised other issues in its filings before the SEC in this matter that tend to show how the Application of CEC before the SEC will aid the continuing violation of other NRC rules and regulations and in fact will cause them to increase.

WRA has also raised the question of jurisdiction between the SEC and NRC which the NRC needs to address as it relates to CEC's application.

This should be accomplished through a Director's Order for:

- a. An immediate and permanent halt on all construction and any other activity with the exception of the permanent removal of all radioactive materials at the Perry nuclear plant site.
- b. The establishment of a special inspection team to review allegations that are enclosed. It is of prime importance that this team be completely

independent since the current NRC QC and QA inspections and other special inspection teams have failed to adequately deal with the enclosed allegations. The inspection team must consist of inspectors from different regions other than Region III and others from outside the NRC itself. WRA requests that the outside inspectors come from the Government Accountability Project (GAP), the Union of Concerned Scientists (UCS), and Ralph Nader's Public Citizen.

- c. In the event that the plant is deemed to comply with seismic and quality standards, an audit to see how the Application of CEC before the SEC will affect 10 C.F.R. 140 and any other provisions of the code as they relate to the NRC. The audit should be conducted in part by independent auditing firms that are free from outside economic or political influence.

#### 1. BACKGROUND

Perry is a two unit reactor under construction near Cleveland, Ohio. It is being built by the Cleveland Electric Illuminating Company.

Perry Unit 1 is allegedly over 90 percent complete. Unit 2 is allegedly 46 percent complete. However, the degree of cannibalization of Unit 2 that has taken place since its "unofficial" abandonment makes that estimate fanciful at best.

As a result of severe financial problems, as well as construction and operational difficulties at the Davis-Besse, Beaver Valley, and Perry sites, Toledo Edison (TE) and CEI joined forces to form a holding company called Centerior Energy Coporation (CEC) (formerly North Holding Company). CEC has filed an application with the Securities and Exchange Commission (SEC) requesting an order of the Commission approving its acquisition of all of the outstanding common stock of CEI and TE.

WRA has made formal requests for hearings and intervention in this matter and has asked the commission to deny the application of CEC and not issue the requested order.

One of the reasons the Application of CEC should be denied is because of unsafe conditions at the Perry plants, which we believe has been caused at least in part by the influence of organized crime on the construction of the plants.

Senate investigations, testimony before Ohio House Subcommittees, and other sources have all indicated heavy influence of organized crime at the plants.

The Western Reserve Alliance (WRA) contacted the Government Accountability Project (GAP)<sup>1/</sup> because of the large number of workers and former workers that were contacting WRA. Since that time GAP has been advising and assisting WRA in regard to dealing with the numerous allegations made by the large number of whistleblowers that contacted WRA. (See Section II)

WRA and numerous other consumer groups raised the issues concerning major earthquake faults near the Perry nuclear power plants and a fault line on the plant site. An earthquake of a magnitude of approximately 5.0 on the Richter scale struck on January 31, 1986.<sup>2/</sup>

<sup>1/</sup> GAP acknowledges the lead role that it has played in investigating and submitting the allegations and documentation regarding the Perry site. GAP will continue to followup these and any subsequent allegations and documentation. GAP has turned this material over to OCRE and WRA. WRA is to be considered the formal filers of this petition pursuant to 10 C.F.R. 2.206. GAP intends to continue its investigations into the situation at the Perry facility and will turn over any new material to OCRE and WRA to be added to this their present petition under 10 C.F.R. 2.206 or any new or different filings that WRA may deem needed in the future.

<sup>2/</sup> Some of the issues surrounding the earthquake are as follows

1. The Perry plants were designed to withstand extremely minimal gravitational forces (.15). The earthquake of January 31, 1985 subjected the Perry plants to substantially greater gravitational forces than the plants were designed to withstand (.19;.23;.25)
2. The epicenter of the January 31, 1985 earthquake was extremely close to the Perry nuclear plants.
3. The Perry plant site is literally on a fault line.
4. CEI filled the fault line with cement and said it was a glacial scar.
5. CEI built the plant at this dangerous location over the objections of consumer groups who raised the earthquake and fault line issues most vigorously.
6. A fault line can move at any time no matter how new or old.
7. Because of the vibration and ground acceleration, the soil conditions at the Perry site subject the plant to greater degrees of gravitational forces than would occur in other parts of the world.

## 2. LEGAL BASIS

### A. Legal Requirements

The law gives the Commission broad discretion to revoke, suspend, or modify the construction permit of an NRC licensee. 42 U.S.C. 2.206 states that:

(a) Any person may file a request for the Director of Nuclear Material Safety and Safeguards, Director, Office of Inspection and Enforcement, as appropriate, to institute a proceeding pursuant to section 2.202 to modify, suspend or revoke a license, or for such other action as may be proper...

In NUREG-0797, Supplement No. 10, Safety Evaluation Report related to the operation of Comanche Peak Steam Electric Station, Units 1 and 2, Docket Nos 50-455 and 50-446, Texas Utilities Generating Company, et al., the NRC saw that as the construction of the plant was nearing completion, issues that remained to be resolved prior to the consideration of the issuance of an operating license were complex, resource intensive, and spanned more than one NRC office. To ensure the overall coordination and integration of these issues, and to ensure their resolution prior to licensing decisions, the NRC Executive Director for Operations (EDO) issued a memorandum that directed the NRC's Office of Nuclear Reactor Regulation to manage all necessary NRC actions leading to prompt licensing decisions, and assigning the Director, NRC Division of Licensing, the lead responsibility for coordinating and integrating the related efforts of various offices within the NRC. Technical concerns and allegations about the plant arose mainly from the quality assurance/quality control programs. In addition to the NRC, individuals with allegations were also sponsored by the Citizens Association for Sound Energy (CASE) and the Government Accountability Project (GAP). General allegations about poor construction work at Comanche Peak also appeared in several newspaper articles. Technical concerns were grouped by subject into a number of areas. The NRC investigated and issued a number of reports. WRA contends the Perry plants are deserving of similar investigations and reports before any license is considered.

### B. Criteria to Exercise Discretion

According to 10 C.F.R. 2.206, the NRC "may institute a proceeding to modify, suspend or revoke a license or for such other action as may be proper by serving on the licensee an order to show cause which will: (1) allege the violations with which the licensee is charged, or the potentially hazardous condition or other facts deemed to be sufficient ground for the proposed action." As interpreted by the Proposed General Statement of



Policy and Procedure for Enforcement Action, published in the Federal Register, 44 Fed. Reg. 66754, Oct. 7, 1980 (10 C.F.R. 2.204), suspending orders can be used to remove a threat to the public health and safety, the common defense and security or the environment.

More specifically, suspension orders can be issued to stop facility construction when further work would preclude or significantly hinder the identification and correction of an improperly constructed safety-related system or component; or if the licensee's quality assurance program implementation is not adequate and effective to provide confidence that the construction activities are being properly carried out. Moreover, orders can be issued when the licensee has not responded adequately to other enforcement action or when the licensee interferes with the conduct of an inspection or investigation or for any reason not mentioned above for which the license revocation is legally authorized. In order to help determine the significance of violations within this list, the Commission established "severity categories" ranging from the most serious structural flaws (Severity I), to minor technicalities (Severity VI). 44 Fed. Reg. at 66758-59.

#### C. Specific Bases for Suspension

It is our belief that an NRC investigation will confirm first, the seismic design inadequacy of the plant, and second, that during the entire construction of the Perry plants CEI has demonstrated an unwillingness to pursue the minimum necessary commitment to comply with the laws and procedures surrounding the construction of the Perry power plants.

#### D. Survey of the Earthquake

The Perry nuclear plants are built on a fault line that WRA contends is not a glacial scar. WRA contends that there will be more earthquakes of a greater magnitude. The epicenters of these quakes may be even closer to the Perry plants. The current delay in determining what the devices are that measure the gravitational forces is indicative of the shoddy attitude with which CEI constructed these plants. The current reports that these devices can only be read and interpreted by the vendors is most disturbing. Also, the delay in getting this information makes a reasonable person highly suspicious of the credibility of both CEI and the NRC.

### III. LIST OF ALLEGATIONS AND SUBSTANTIATING DOCUMENTATION

The following is a list of allegations and documentation given to GAP by various whistleblowers through the course of its investigations regarding the Perry plants.

We expect that the affidavits, and subsequent OI and IE investigations and inspections, will be reviewed by the Commission and/or the Director in making the determination whether or not to grant both the immediate relief sought in this matter, as well as the suspension of the construction permit until such time as the Commission is able to determine the extent of the problems at the Perry facility and the appropriate solutions.

1. With regard to NRC regulations, the Final Safety Analysis Report (FSAR); Environmental Safety Report (Safety Evaluation Report) NREG 88.7 which was made specifically for Perry and 10 CFR 50: workers allege there has been less than the previous commitment on the part of CEI.

2. CEI made commitment for radiation waste management system (SER). Workers allege that in fact there exists no real quality system, no quality program.

3. CEI led the NRC to believe CEI was committed to Regulatory Guide 1.143. The NRC was led to believe that CEI was committed to this plan in its entirety. Workers allege that there was only random QC at best. There are many welds that would not meet code requirements.

4. Workers allege that the above conditions have been permitted because CEI has fraudulently classified the waste management system. Workers say the class system that CEI has designated for the waste management system is not in compliance with FSAR commitments. This impropriety has been committed by CEI deliberately to avoid safety requirements, workers allege.

5. CEI committed itself to the 1979 regulatory guides. Under these guides they may not have to build Class 3 section or specification but they are supposed to have a particular QC/QA program. Workers allege they do not have such programs in these areas.

6. In these areas welds have been installed below standard and there is a bad valve problem, workers allege.

7. Every weld that was bad on every valve that was not up to par was thus classified by CEI as a non-safety item. Under this classification of non-safety item it really meant no QA.

8. There were many problems with the hydrostatic tests.

9. CEI did not even have state inspectors in regard to these tests.

10. There are problems with the G.50 system. This is the liquid rod waste system. Workers allege that the way the system is

currently set up radioactivity will be put into Lake Erie. (How much? Unanalyzed by CEI...)

11. By law it should be noted in the FSAR any time there is a lessening of CEI's commitment to NRC rules. CEI has made several changes to its commitment to the NRC rules but they have not reported them in the FSAR.

12. CEI said they would have a system of alarms that would go off in the rod waste room control and the main control room at the same time. Although CEI made the commitment to the NRC, CEI decided not to have the dual system of alarms installed as promised. CEI never reported this change in their plans to the NRC. This is a lesser commitment than was originally told to the NRC.

13. CEI mentioned in the FSAR its plans to deal with beta and gamma radiation. Subsequently CEI changed its plans to include only gamma radiation. CEI never reported this subsequent change in the FSAR.

14. In the containment building, regarding steel penetration and pipes, the welds are cracked.

15. Boots around the penetrations were redesigned to expand a little more; some of the penetrations go in and out at an angle. The pressure is going through the penetrations and this is the only seal. There are plastic seals around the penetrations. If the plastic boot around the penetration fails, the system could belch and radiation could go out. This is true because even though there is negative pressure, the system could still belch. Also it is possible that in some cases there may not be negative pressure. If this were to occur, radiation would just leak out. Most nuclear plants use metal boots, but CEI uses plastic because it is faster, workers allege. These are in the containment vessel.

16. Workers allege dresser valves are a fiasco (rod waste system). This can be seen by looking at DAR 2.12. These are vent valves and drain valves to drain radiation. (Some of these valves are already 10 years old.) Workers allege that the design of the valve is not any good. The rework program of CEI reworked 100 of these valves. They put the redesigned valves through a test. It is called an in-service leak rate test. Many of the redesigned valves failed the test. These are small bore valves.

17. Workers allege that the Borg-Warner valves (rod waste system) are causing a lot of trouble. This can be seen on DAR 2.13. (Some of these valves are already 10 years old.) The X-rays of the valves do not match up with the valves (compared with what is currently installed). Later they found they would not open or close properly. These valves would not work except when they were in a vertical position. They were designed to work in



the horizontal position but they could not work in that position. Some of these valves are 20 inches in diameter.

18. CEI has on occasion used nonconformance reports to make design changes, as opposed to the appropriate design change request forms. An ASME experienced engineer should be able to find many examples of such situations.

19. Men in certain unions that have been tied to corruption or organized crime activity have tried to prolong their jobs by sabotaging many items at the Perry plants.

20. During the ILRI test CEI was trying to get up to 30 lbs. PSI yet they could not even make 12 or 15. CEI did not know where the leaks were.

21. Workers allege while working at Perry Nuclear Power Plant they have seen smoking of marijuana and drinking of intoxicants.

22. Workers allege they have seen welders taking tests illegally at the Power site, with no supervision.

23. Workers allege they have seen contractors overloading jobs, while many workers just sat around for days doing nothing.

24. Workers allege they have been approached by members of Local 744 and "asked if I wanted some cocaine."

25. Workers allege they turned the above information over to the FBI and have heard nothing since.

26. Workers allege they saw men who "stayed loaded on cocaine the whole job."

27. The workers allege that foremen knew about men being stoned on cocaine because the men "did not hide it." Yet there is no evidence that the foremen did anything at all in this regard.

28. Workers allege that uncertified welders would use the names of certified welders on welding jobs when the certified welders were not even on the site. The foremen at the plant site were the ones who approved and encouraged such activity.

29. 40,000 tons of reinforcement rod was wrongly ordered and then sent to the scrap yard by truck.

30. Insulation - 500 penetrations were installed wrong. Sleeves should have been put on before insulation. Now the insulation will break up from the pipes moving back and forth.

31. Portions of the containment vessel are now susceptible because the sprinkler system came on for undisclosed, accidental, or unknown reasons.

32. Power outage in the plant caused evacuation and cause of the outage is uncertain.

33. The quality of the paint job at the plant site is not uniform. In some areas of the plant the paint is already starting to come off. One can see this on the equipment hatch at the top of the unit. Other paint should have been taken off but was not.

34. CEI negotiations with unions were in part responsible for bad feelings between unions. Situation arose where carpenters were supposed to give orders to laborers. This resulted in no one bringing cut boards to the appropriate local. Thus CEI had to permit the union to go back to their old way of doing things. This type of management caused waste, confusion, bad feeling, and a lack of concentration on meeting health and safety standards.

35. Local 744 of the Boilermakers hired unqualified men under the direction of Louis Jewels, president of the local, to work at the Perry plant. They were paid journeyman wages but should have been paid apprentice wages. Numerous workers have stated that this occurred because of corruption in Local 744 and the International. Numerous workers have stated that vast sections of the plant do not meet NRC standards because of this activity.

36. A lot of voids existed in the bioshield wall. These were fixed, but not properly.

37. Stealing is very widespread at the Perry plant. Even CEI personnel are involved.

38. The standard procedure regarding the way welding is done and inspected at Perry is not in compliance with current NRC code.

39. There were irregularities in the welding tests that were given at Perry. Indications are that some men took the test for other men who were unqualified. Some men took a welding test that took a day, while others were permitted to take as long as a week.

40. The polar crane in Unit 1 rides on a support beam above the reactor. The beam that the wheels of the polar crane ride on is defective. The beam that the track sits on is defective. This beam came into the plant in sections. The welds that were made in the plant are good welds. The welds on the beam that were made outside the plant or fabricated by vendors are bad. Thus the rail that the polar crane rides on is defective.

41. QC inspectors were harassed and intimidated in an attempt to get them not to report QC violations.

42. This harassment and intimidation of QC inspectors took place

and affected the quality of inspection at the diesel generators of Unit 1, Unit 2, and the 620 Central complex.

43. The main control room suffered from a serious lack in terms of number of QC inspectors for the job. Due to the shortage of QC inspectors, the verification work that should have been done (regarding all electrical work, power modulators, and instrumentation) was not done in the main control room.

44. Due to overwork, the two QC inspectors were not allowed to see the computer room at elevation 638. The program was just not set up to deal with this.

45. There are problems with emergency service water regarding pecker heads terminations. The vendor side is different from the Gilbert drawings. The rotation for the motor is opposite to industry drawings. The rotation for the motor is 99-100% different from Gilbert drawings. Workers say they feel it is 100% because they have never seen one that was correct. The concern of the workers is that they feel this situation could cause them to run backwards and "you would have a hot reactor."

46. In the containment vessel there are numerous and serious cracks in the first 60 feet of stainless steel clad. There are cracks in the other parts of the stainless steel clad, but the first 60 feet of the lower portion is extremely bad. This would be in the area of #1 ring and #2 ring. There are "a lot of cracks in the double bar around the first ring, the bottom of it."

47. The welds in the fuel pools are bad. Do tests here. Look at the welds. They are bad.

48. The question was raised: "Why did they fix the bad crane gridder in Unit 2 but not in Unit 1?" It is alleged that the Unit 1 crane gridder is bad.

#### IV. CONCLUSION

For all of the reasons stated above, WRA seeks an immediate closure of the Perry plants and/or an independent investigation of QA/QC problems outlined in this letter. Further, we seek a review of the compliance of CEC pursuant to 10 C.F.R. 140.

We look forward to your immediate response.

Sincerely,

*Donald L. Schlemmer*  
Donald L. Schlemmer

DLS:41806

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DOCKET NUMBER

PROD. & UTIL. FAC

50-440/441

(2.206)

February 4, 1986



Nuclear Regulatory Commission  
Washington, D.C. 20555

Re: Petition pursuant to 10 C.F.R. 2.206  
Perry 1 and Perry 2

To the Commissioners:

Response to the enclosed letter should be directed to the  
addresses listed below:

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