

SHAW, PITTMAN, POTTS & TROWBRIDGE

1800 M STREET, N.W.

WASHINGTON, D.C. 20036

RAMSAY D. POTTS  
STUART L. PITTMAN  
GEORGE F. TROWBRIDGE  
STEPHEN D. POTTS  
GERALD CHARNOFF  
PHILLIP D. BOSTWICK  
R. TIMOTHY HANLON  
GEORGE M. ROGERS, JR.  
JOHN B. RHINELANDER  
BRUCE W. CHURCHILL  
LESLIE A. NICHOLSON, JR.  
MARTIN D. KRALL  
RICHARD J. KENDALL  
JAY E. SILBERG  
BARBARA M. ROSSOTTI  
GEORGE V. ALLEN, JR.  
WM. BRADFORD REYNOLDS  
FRED A. LITTLE  
FRED DRASNER  
NATHANIEL P. BREED, JR.  
MARK AUGENBLICH  
ERNEST L. BLAKE, JR.  
CARLETON S. JONES  
THOMAS A. BAXTER  
JAMES M. BURGER

JAMES THOMAS LENHART  
STEVEN L. MELTZER  
DEAN D. AULICK  
SHELDON J. WEISEL  
JOHN A. McCULLOUGH  
JOHN ENGEL  
ROBERT W. ANNAND  
STEPHEN B. HUTTLER  
WINTHROP N. BROWN  
JAMES B. HAMLIN  
ROBERT E. ZAHLER  
RICHARD E. GALEN  
ROBERT B. ROBBINS  
FRANK E. VOGEL  
LAURA K. FARRAND  
MATIAS F. TRAVIESO-DIAZ  
VICTORIA J. PERKINS  
JOHN H. O'NEILL, JR.  
JAY A. EPSTEIN  
FRANKLIN D. CHU  
GEORGE D. CROWLEY, JR.  
MICHAEL D. HAYS  
THOMAS H. MCCORMICK  
SUSAN D. FALKSON  
STEVEN M. LUCAS

(202) 331-4100

TELECOPIER

(202) 296-0694 & 296-1760

TELEX

89-2693 (SHAWLAW WSH)

CABLE "SHAWLAW"

JOHN H. SHARON

EDWARD B. CROSLAND

COUNSEL

November 1, 1978

50-440 A  
50-441 A

Mr. Jerome Saltzman, Chief  
Antitrust & Indemnity Group  
Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Dear Mr. Saltzman:

I am in receipt of a copy of Mr. Goldberg's letter to Edson G. Case of October 20, 1978, complaining once again on behalf of the City of Cleveland ("City") about the proposed transmission services schedule submitted by The Cleveland Electric Illuminating Company ("CEI") to the NRC Staff on September 15, 1978. Despite the extreme length of this most recent complaint, it sets forth no legitimate grounds for objection by the City to CEI's September 15 proposal.

Mr. Goldberg's letter is perhaps most disturbing because it effectively ignores the meeting on August 10, 1978, between representatives from the NRC Staff, CEI, and City. As you will recall, in light of concerns expressed about the general transmission tariff being considered at that meeting, an agreement was reached that CEI would submit to the NRC Staff for its review a revised transmission services schedule specifically tailored to meet the needs of the two existing municipal systems in the CEI service area: the City and Painesville.

CEI's willingness to provide such a revised schedule was not because of any perceived inconsistency between the more general tariff and the Licensing Board's antitrust conditions -- there clearly is none. Rather, it was CEI's expectation that by meeting each and every "concern" raised by the City at the August 10 meeting, regardless of whether CEI viewed such "concerns" as valid or invalid, this matter could be resolved expeditiously in a manner satisfactory to all concerned. Our September 15 revision undertook to do just that, incorporating virtually all of the language changes which had been urged by the NRC Staff on August 10.

781107 0137

Z 999  
S/P

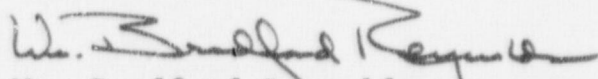
Mr. Jerome Saltzman  
November 1, 1978  
Page Two

Now, we hear from the City that this conscientious effort to tailor the proposed transmission services schedule in accordance with the discussion on August 10 should be condemned because the revision does not go far enough. Not surprisingly, CEI has serious doubts about the sincerity of the City's position. When the complaint was voiced by the City at the August 10 meeting that the generally applicable transmission tariff proposed by CEI was insufficient to pass muster under the Licensing Board's antitrust decision, CEI discussed openly with the City and the NRC Staff the recommended changes and reached a clear understanding of the narrower direction to be taken and the language to be used. The understanding is accurately reflected in the revised September 15 schedule -- which is now being criticized by the City as somehow "exclusionary" because it has been aimed more precisely at the needs of the City and Painesville.

The City's most recent objections manifest an obvious disinterest in arriving at a meaningful agreement with CEI regarding transmission services. We have heard for the past seven years that the City purportedly wishes to obtain low-cost power from sources other than CEI (including PASNY). Yet, no effort has been made by the City to avail itself of the transmission tariff filed by CEI with the Federal Energy Regulatory Commission ("FERC") on January 27, 1978, and made effective by FERC as of February 28, 1978, subject to refund.

Rather, of all the municipal and cooperative entities, the City alone has chosen to challenge the generally applicable transmission tariff filed with FERC. Concurrently, it is also objecting to the September 15 proposal submitted to you as being overly precise. Such legal posturing serves no legitimate purpose whatsoever. It is clear that CEI has offered to wheel for the City and Painesville (as well as all other entities) to the fullest extent possible in order to satisfy the current and projected needs of these systems. If the City chooses to turn its back on this proposal, that decision is its own. The City's October 20 letter, however, suggests no legitimate reason for wasting the time and energy of the NRC in yet another round of litigation on objections so patently obscure and meaningless as those now being advanced by the City.

Sincerely yours,



Wm. Bradford Reynolds  
Counsel to The Cleveland  
Electric Illuminating Company

WBR:ats

cc: Mr. Harold R. Denton  
Mr. Argil L. Toalston  
Roy P. Lessy, Jr., Esq.  
Reuben Goldberg, Esq.