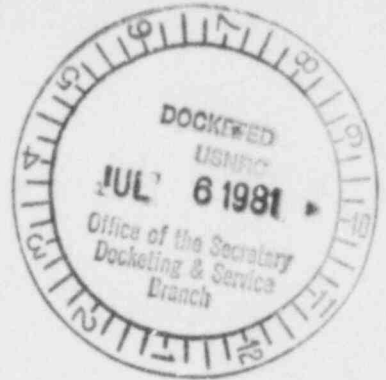


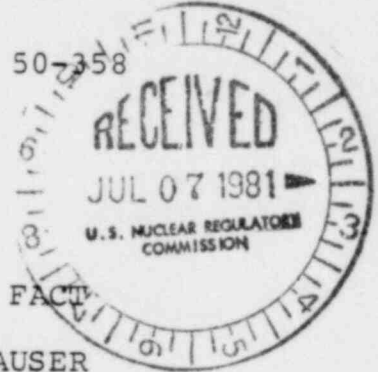
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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
 )  
The Cincinnati Gas & Electric )  
Company, et al. )  
 )  
(Wm. H. Zimmer Nuclear Power )  
Station) )

Docket No. 50-358



APPLICANTS' REPLY TO THE PROPOSED FINDINGS OF FACT  
AND CONCLUSIONS OF LAW SUBMITTED BY  
MIAMI VALLEY POWER PROJECT AND DAVID B. FANKHAUSER

On June 4, 1981 "Intervenor David Fankhauser's Proposed Findings of Fact and Conclusions of Law on Contention 6" was submitted. On June 5, 1981, "Miami Valley Power Project's Proposed Findings of Fact and Conclusions of Law in the Form of an Initial Decision," was filed. Pursuant to the Atomic Safety and Licensing Board's Schedule for Filed Proposed Findings and Conclusions of March 20, 1981, Applicants, The Cincinnati Gas & Electric Company, et al., hereby reply to certain of intervenors' proposed findings. Most of the arguments have already been anticipated in Applicants' Proposed Findings of Fact and Conclusions of Law in the form of an Initial Decision ("Applicants' Proposed Findings") submitted on April 24, 1981, and, as to these, no reply is necessary.

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The following paragraphs should be added to Applicants' Proposed Findings:

16A. While Dr. Fankhauser asserts in paragraph 5 of "Intervenor David Fankhauser's Proposed Findings of Fact and Conclusions of Law on Contention 6" dated June 4, 1981 (hereinafter "Dr. Fankhauser Proposed Findings") that a two year meteorological study period is not sufficient to draw generalized meteorological assumptions, the reference that he cites, Tr. 802, merely states that two years of data was utilized. It does not in any way support the proposition that such test period, which was in accordance with Regulatory Guide 1.23, was not adequate. Hence, Dr. Fankhauser has offered no evidence to support his argument, which accordingly must be rejected.

16B. In paragraph 6 of the Fankhauser Proposed Findings, it is asserted that the accuracy of the meteorology which was used to calculate the critical doses of highest exposure was flawed in that the mechanical vacuum pump and drywell purge doses were assumed to have occurred in approximately four 24 hour periods on an annual basis. Dr. Fankhauser asserts that neither the Applicants nor the Staff factored this fact into their calculations. This is contrary to the evidence. Lower atmospheric dispersion factors and disposition were utilized for analysis of the effects of this apparatus (Staff Exh. 2, Table 5.5 at 5-17). Dr. Fankhauser has made no showing that the meteorology would be other than

random, i.e., that during operation of the mechanical vacuum pump and drywell purge the wind direction would always be towards the Moscow Elementary School (or any other location). Thus, Dr. Fankhauser's position has no merit.

27A. Paragraph 7 of Dr. Fankhauser's Proposed Findings disagrees with the evidence of record that delay in the operation of the vacuum pump or drywell purge would lead directly to delays in operation of the facility. Reference to the cited transcript page (Tr. 787) reveals at most an interest by the Board in questions as to whether releases could be scheduled. By no means can such statement by this Board during the course of the hearing be taken as reflecting a finding that routine scheduling would not result in delay. In fact, subsequently the Board heard further extensive testimony on this matter.

35A. In "Miami Valley Power Project's Proposed Findings of Fact and Conclusions of Law in the Form of an Initial Decision" dated June 5, 1981 (hereinafter "MVPP Proposed Findings") at paragraph 2.a., it is asserted that:

Fred Banta, a representative of the Husky Corporation, and a witness for the Applicants, testified that he is not sure whether all welders passed qualification tests required by the company's quality control system to insure quality welds (T 1027-1028).

This assertion is not supported by the cited transcript reference. While Mr. Banta stated that he could not recall from his own memory whether welders had passed qualification

tests, which is not surprising since these tests were given some five years prior to his testimony (See Tr. 1025), he stated positively that he was certain that welders were qualified. Mr. Banta testified (Tr. 1027, lines 20-22) that he knew that welders had been qualified because he had the qualification records and samples of pieces tested during that program (See also Tr. 1027, line 23 through Tr. 1028, line 1).

35B. In MVPP Proposed Findings at paragraph 2.a., MVPP further asserts that Mr. Banta testified "that Husky's welders were not skilled enough for the entire welding procedure to qualify (Tr. 1008)." Reference to that transcript page does not support the proposition that welding procedures necessary to the Zimmer job were not qualified. It is clear from the context of his testimony that Mr. Banta was addressing qualification to more difficult levels of welding than were actually being done or needed for welding cable trays for Zimmer (Tr. 1008, lines 16-22). It is instructive that counsel for MVPP conducting this portion of the examination was cautioned by the Licensing Board for characterizing the witness' response as stating "that the welders were not as skilled as they should be . . ." (Tr. 1009, lines 5-12).

35C. In MVPP Proposed Findings at paragraph 2.c., MVPP states that the Staff witnesses testified "that cable

tray welding at Husky was performed by unqualified welders. (T1767)." This assertion is much broader than the actual testimony of Staff witnesses Vandell and Westcott. These individuals were addressing one single instance involving 14 pieces welded over a two week period discussed in Paragraph 35, supra, (Tr. 1767) in which two welders were not qualified on a single procedure. Such procedure was subsequently qualified. The Staff witnesses never testified that all cable tray welding at Husky was performed by unqualified welders as MVPP would have this Board find.

35D. In MVPP Proposed Findings at paragraph 3.a., it is asserted that Mr. Hofstadter testified "that as a general rule, welders who do not pass qualification tests do not produce good welds in production (T1491-92)." An examination of the cited pages does not indicate that Mr. Hofstadter made such a statement. In any event, there has been no showing that aside from a single instance which had been thoroughly investigated by the NRC Staff, welders who did not pass qualification tests welded Zimmer cable trays. While, as stated in MVPP Proposed Finding of Fact 3.b., Mr. Banta testified that when welders of low skill worked at high speeds, poor quality welds could be produced, he specifically stated that if this condition were to occur, these poor welds would be observed and rejected by the inspectors and a loss of incentive under the Husky program would result (Tr. 1083, lines 20-24).

36A. In MVPP Proposed Findings at paragraph 2.b., it is asserted that several welders attempted to reinstate their certification which had lapsed. Aside from his recollection which was directly contrary to the testimony of the other witnesses, Mr. Hofstadter could produce absolutely no evidence that recertification tests were failed and that all records concerning these tests were ordered to be destroyed or that he had raised this matter outside of Husky until he was laid off involuntarily. In the same paragraph, the general assertion unsupported by any reference to the evidence of record is made that Mr. Hofstadter's testimony is confirmed by the testimony of Applicants' and NRC Staff witnesses. As discussed herein in paragraphs 32-50, such unsupported assertion is completely contrary to the evidence.

44A. In MVPP Proposed Findings at paragraph 3.d., MVPP states that Applicants' witness testified "that visual inspection of cable welds was made only after galvanization . . . ." This completely mischaracterizes Applicants' testimony. At Tr. 1106, the page cited by MVPP, Mr. Schweirs was clearly addressing receipt inspection at the Station whose major purpose was to determine whether there was damage in shipment. See Tr. 1098-99 and see generally 10 C.F.R. Part 50, Appendix B, Criteria XV. As stated at Tr. 1106, line 9, it was noted that this was a similar inspection to the one conducted in the fabrication facility, which inspection was accomplished prior to galvanization (Tr. 1102).

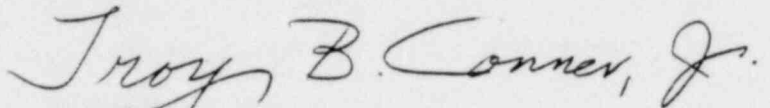
48A. In MVPP Proposed Findings at paragraph 4.b., it is stated that Mr. Hofstadter testified that when a weld breaks, it could break with sharp edges. Initially, Mr. Hofstadter has minimal qualifications with regard to such welding design. He has no qualifications which would permit him to testify regarding electrical engineering or fire protection. There is no probative testimony that, even if such a hypothetical break occurs, it would cause a fire or that, even if a fire would occur, the design of the system of the plant would prevent safe shutdown caused by a fire in a single cable tray. The Station has been thoroughly evaluated to assure that sufficient fire protection measures have been taken. This analysis includes assurance that any fire, including an exposure fire, will not prevent safe shutdown of the facility (Applicants' Exh. 1, Fire Protection Evaluation Report).

48B. In MVPP Proposed Findings at paragraph 4.c, the NRC witnesses are said to have testified that during an earthquake a weld could come loose allowing a side rail to fall off a tray and cut cables. It is clear from Tr. 1779 and 1782 that the witnesses were speaking hypothetically and were not addressing any realistic series of events. For example, at Tr. 1782, one of the Staff witnesses testified in response to a Board question that, during a seismic

event, a cable tray side might twist, but it would not necessarily fall off. Furthermore, the Staff witness testified that if the side rail were to fall off, there would, in all likelihood, be no consequences (Tr. 1775, 1779).

Respectfully submitted,

CONNER & WETTERHAHN



Troy B. Conner, Jr.



Mark J. Wetterhahn  
Counsel for Applicants

July 2, 1981



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the matter of )  
 )  
The Cincinnati Gas & Electric ) Docket No. 50-358  
Company, et al. )  
 )  
(Wm. H. Zimmer Nuclear Power )  
Station) )

CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Reply to the Proposed Findings of Fact and Conclusions of Law Submitted by Miami Valley Power Project and David B. Fankhauser," dated July 2, 1981 in the captioned matter, have been served upon the following by deposit in the United States mail this 6th day of July, 1981:

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