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REPORT OF INVESTIGATION

TITLE: QUESTIONABLE CONDUCT BY NRC EMPLOYEES

DATE: September 26, 1980

INVESTIGATOR(s): RONALD M. SMITH

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REPORT OF INVESTIGATION

SUMMARY

By memorandum dated July 30, 1979, George C. Gower, Acting Executive Officer for Operations Support, Office of Inspection and Enforcement, requested this office to investigate three "employee actions" concerning the conduct of NRC employees in regard to an investigation conducted by IE. The IE investigation was oriented to whether Cincinnati Gas and Electric (CG&E) officials had given false and/or misleading testimony regarding plant staffing of the Zimmer facility to an Atomic Safety and Licensing Board Panel (ASLBP) (Attachment A).

The three issues raised in the July 30, 1979, referral were:

1. Mr. Irving A. Peltier, formerly Licensing Project Manager, Office of Nuclear Reactor Regulation (NRR) had discussed with management the matter under investigation by IE, i.e. possible misrepresentation by CG&E management to the ASLBP regarding staffing of the Zimmer Plant.
2. Mr. Peltier, or a co-worker, may have tried to influence Mr. Charles Barth, Attorney, ELD, and through him the ASLBP to disregard the matter under investigation and to destroy the IE memorandum of May 2, 1979, which addressed the IE concerns.
3. Mr. Thomas Vandel, NRC Project Inspector, IE, Region III, released the contents of a Region III memorandum to Mr. Schott of the Zimmer Plant. The memorandum requested guidance of IE, Headquarters, as to whether an official investigation should be conducted.

The first and second "employee actions" were not substantiated while the third allegation was substantiated in that Mr. Vandel did provide a copy of the April 10, 1979, memorandum to Mr. Schott of Zimmer.

1. REASON FOR INVESTIGATION

On July 30, 1979, Mr. George C. Gower, Acting Executive Officer for Operations Support, IE, requested this office to investigate three "employee actions" which had arisen in connection with an IE investigation. As indicated in the summary above, the three actions were related to possible improper conduct on the part of NRC employees.

II. BACKGROUND

On April 10, 1979, James Keppler, Director, Region III, advised Dudley Thompson, Executive Officer for Operations Support, IE, HQS, of the Region's feeling that CG&E had provided erroneous information to the ACRS during a subcommittee meeting held on February 27, 1979 (Attachment B). This erroneous information pertained to the proposed staffing level of the Zimmer Plant so as to provide back-up supervisory capability. It appeared to Region III that CG&E had purposely misled the ACRS into thinking that there would be double coverage for the critical aspects of the plant. The April memorandum also sought guidance on whether to conduct an investigation into the matter in order to determine whether CG&E had given false statements.

In an answering memorandum dated May 2, 1980, Mr. Thompson advised Mr. Keppler that his office had discussed the matter raised by the April 10 memorandum with Charles Barth, ELD, and with Roger Fortuna, OIA, and had consequently determined that it would be appropriate for Region III to investigate the matter and recommended such action to Region III (Attachment C).

As part of the IE investigation, Peter Baci, Investigator, IE, HQS, interviewed Terry Harpster, a reactor inspector for Region III. In his statement, Mr. Harpster expressed his earlier concern for the station staffing at Zimmer. Joint NRC/CG&E meetings on this issue were held as early as July 13, 1978. Based on his knowledge of the plant and the ongoing meetings, Mr. Harpster concluded that Mr. Schott's (the CG&E representative) assertions before the ACRS subcommittee in February 1979 were contrary to his knowledge regarding staffing of the Zimmer Plant. Harpster communicated this concern to CG&E and Mr. Peltier, the NRC Zimmer Project Manager at NRC, Hqs. The presentation by CG&E of March 9, 1979, to the full committee did not appear to Harpster to correct his earlier concern.

Harpster advised the IE investigator that on May 18, 1979, he (Harpster) discussed the associated events with Peltier. According to Harpster, Peltier did not seem to recall earlier discussions of Harpster's concerns; but Peltier did state that he had discussed Harpster's concerns with CG&E and that CG&E was satisfied with its testimony. Peltier also mentioned that he had discussed the May 2, 1979, memorandum (Attachment C) with ACRS staff members and that "someone" had talked with Barth and had convinced him that the matter was not significant. Peltier thought that Barth later contacted James Yore, Chairman, ASLBP, (now deceased) and asked him to throw the May 2 memorandum away.

Based on all of the above and a May 18, 1979 letter (Attachment D) from E. A. Borgmann, Senior Vice President for CG&E, which addressed CG&E's view of the matter, IE requested by memorandum dated July 30, 1979, that this office investigate the three "employee actions" described above. A copy of the July 30, 1979, IE investigation regarding a possible misrepresentation made by CG&E to the ASLBP was obtained by this office as a result of the interview with Peltier on March 13, 1980 (Attachment E).

III. DETAILS

Interview of Irving A. Peltier, NRR

Mr. Peltier, Licensing Project Manager, Office of Nuclear Reactor Regulation (NRR), stated that he did have contact with the utility regarding the issue of CG&E staffing for the Zimmer Plant. The issue had been under discussion since July 1978. Peltier denied that he showed the May 2, 1979, memorandum to the licensee and was not sure whether he was even aware of it at the time he discussed the issue of staffing with the licensee. Peltier stated that he never understood the interest of Harpster because (1) the issue of backup staffing was a concern of NRR and (2) at the time increased staffing could not have been required by NRR because CG&E met the "minimum" NRR requirements without the additional staffing. Peltier further noted that the May 2 memorandum was not marked "Official Use Only", did not contain any reference to confidentiality in its text, and received rather wide dissemination. Peltier stated he could not remember whether he talked to Barth regarding the May 2 memorandum or if he told Harpster that someone spoke with Barth and convinced Barth to speak with Yore. (See summary of Peltier's interview at Attachment F).

Interview of Charles Barth, ELD

Mr. Barth, Attorney, ELD, stated that he was not contacted by Peltier (or any co-worker) in an effort to influence him, and through him, the Atomic Safety and Licensing Board Panel (ASLBP), to disregard the matter under investigation by IE and/or to have the May 2 memo destroyed. Barth advised he was contacted by James Yore, Chairman, ASLBP (now deceased). Yore, who was on distribution for the May 2 memo, wished to know its significance. Barth advised him that it was being investigated by IE and that he would be advised if anything of substance was developed. Consequently, Barth stated he advised Yore to throw the memorandum away for security reasons. (See summary of Barth interview at Attachment G).

Interview of Thomas E. Vandel, IE, Region III

Mr. Vandel said that he did show the April 10, 1979, memorandum to Schott, Superintendent of the Zimmer Plant. He was told by Mr. Norelius, Region III, to notify Schott of an IE investigator's anticipated arrival at Zimmer as a matter of "logistics" to insure his presence for interview. In the absence of further direction, Vandel chose the memorandum as a means of accomplishing this task (see Summary of Vandel Interview at Attachment H).

Interview of Charles Norelius, IE, Region III

Mr. Norelius, Special Assistant to the Director, advised that he told Vandel to apprise appropriate CG&E personnel that an NRC investigator would be coming to insure the presence of persons to be interviewed. Norelius said he did not advise Vandel whether or not to tell the licensee the reason for the investigation. Through subsequent telephone contact Norelius said that had he known that Schott would have advised the licensee by turning over the letter, he would have not allowed it. (See Summary of Norelius Interview at Attachment I).

Regulatory Provisions

This investigation was concerned with potential employee misconduct as proscribed in 10 CFR 0.735-49a. More specifically the following subsections were germane:

- "(b) Giving preferential treatment to any person.
- (c) Impeding Government efficiency or economy.
- (f) Affecting adversely the confidence of the public in the integrity of the Government."

IV. COMMENT

As to the first allegation that Peltier discussed with CG&E management the matter under investigation, i.e. whether CG&E had misrepresented their proposed staffing to the ASLBP, Peltier readily admitted that he had discussed the Zimmer Plant staffing with CG&E as he had in an ongoing way since July 1978. He denied any intent to tip-off CG&E or to thwart IE's investigation. No facts were obtained which could controvert this assertion. Therefore, this allegation is not substantiated.

Barth denied contact with Peltier regarding the May 2 memorandum. He maintained that he had been contacted by Yore and that he had advised Yore to throw the memorandum away essentially because IE was investigating the matter. Therefore, the allegation that Peltier, or someone else, had, or had tried to, influence Barth and/or Yore through Barth was not substantiated.

Vandel readily admitted that he showed the April 10 memorandum to Schott of the Zimmer Plant as alleged in the third allegation. However, his intent, as stated by him, was to prepare for the IE investigator's projected arrival at the Zimmer Plant. He had been told by Mr. Norelius to insure that CG&E was aware of the investigator's planned arrival so that appropriate personnel would be on hand to be interviewed. No facts were brought to light which would substantiate any intent by Vandel in doing this act which would be violative of the cited provisions of 10 CFR 0.735-49a. However, the allegation that Vandel passed the memo to Schott, the CG&E representative, was substantiated.

Attachments:

- A. Memo Gower to Fortuna, dtd July 30, 1979, w/enclosures.
- B. Memo Keppler to Thompson, dtd April 10, 1979, w/enclosures.
- C. Memo Thompson to Keppler, dtd May 2, 1979, w/enclosures.
- D. Ltr Borgman to Keppler, dtd May 18, 1979
- E. IE Investigative Report No. 50-358/79-21, dtd July 31, 1979
- F. Report of Interview, Irving Peltier
- G. Report of Interview, Charles Barth
- H. Report of Interview, Thomas Vandell
- I. Report of Interview, Charles Norelius



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

JUL 30 1979

MEMORANDUM FOR: Roger Fortuna, Assistant Director For Investigations
Office of Inspector and Auditor

FROM: George C. Gower, Acting Executive Officer for Operations
Support, Office of Inspection and Enforcement

SUBJECT: QUESTIONABLE CONDUCT BY NRC EMPLOYEES

The Office of Inspection and Enforcement (IE) is currently conducting an investigation into statements made by the Cincinnati Gas and Electric Company (CG&E) before an ACRS subcommittee meeting on 2/27/79. During the course of this investigation, which is being conducted on behalf of Region III, several instances of questionable conduct by NRC employees have arisen which are being referred to your office for investigation.

The IE investigation stemmed from Region III concerns over the accuracy of CG&E's statements about staffing at the William H. Zimmer Plant. These concerns were set forth in a memorandum to this office from Region III Director James G. Keppler dated 4/10/79 (enclosure A). This memorandum made several recommendations and requested guidance on whether CG&E management should be confronted as to why the apparent false statements were not clarified at the full ACRS meeting on 3/9/79. It also asked whether an official investigation should be conducted into the matter.

This matter was discussed with you on 4/30/79 by members of my staff and a copy of Mr. Keppler's memorandum was sent to OIA. The matter was also discussed on 4/30/79 with Mr. Charles Barth, an attorney with ELD, who had been involved with the licensing hearings for the Zimmer Plant.

On the basis of the discussions and staff review in X00S, IE replied to Mr. Keppler in writing on 5/2/79. Our recommendation was that an investigation was warranted and that the results of the investigation should be reviewed by OIA for possible criminality on the part of CG&E. A copy of this reply (enclosure B) was forwarded to OIA for information as well as to ELD, ACRS, NRR and ASLB.

On 5/21 to 5/22, 1979, IE Investigator Peter E. Baci interviewed Reactor Inspector Terry Harpster at the Region III Office in Glen Ellyn, Illinois. At that time, Mr. Harpster related a telephone conversation with Irving A. Peltier (NRR/LWR-1) which took place on 5/18/79. According to Harpster, Peltier, who

CONTACT: P. Baci, IE
49-27246

Attachment A

is the NRR project manager involved with the licensing of the Zimmer Plant, had apparently received the 5/2/79 memorandum to Keppler. Peltier stated that he had discussed with CG&E Harpster's concerns over their testimony and that the utility had indicated that it would stand by its original statement. Peltier also indicated that he had discussed the matter with ACRS staff members who reportedly didn't understand Harpster's concerns. According to Harpster, Peltier further indicated that "someone" had spoken to Mr. Barth and convinced him that the material was not significant enough to bring to the attention of the ASLB, and further, that Mr. Barth had contacted Mr. James R. Yore, Chairman of the ASLB and asked him to throw it (meaning the Thompson memo of 5/2/79) away. Mr. Harpster's recollection of his conversation with Mr. Peltier is contained in a written statement which he provided to Mr. Baci (enclosure C).

On 5/21/79, IE Investigator William Ward visited the offices of the ACRS on a separate matter. While there, ACRS staff member Richard P. Savio told Mr. Ward that he believed NRR had already discussed the substance of the 5/2/79 memorandum with CG&E. It was also his belief that the memorandum had been sent to the Public Document Room.

On 5/24/79, Mr. Baci interviewed Mr. James Schott, Superintendent of the Zimmer Plant. This interview was conducted at the site in the presence of Project Inspector Thomas Vandel, USNRC, Region III, and W. W. Schwiers, Principal Quality Assurance & Standards Engineer, CG&E. In discussing his testimony before the ACRS subcommittee, Mr. Schott told Mr. Baci that he was surprised to learn that the matter was still of concern to NRC. He stated that it was not until Mr. Vandel showed him Mr. Keppler's memorandum that he knew NRC was still not satisfied with his earlier statements. During the course of the interview, Mr. Baci queried Mr. Schott further on his awareness of NRC's concern. He indicated that he had heard "rumblings" from his management that the matter had not been put to rest, and that this was confirmed when Mr. Vandel showed him Mr. Keppler's memorandum. Mr. Baci then showed Mr. Schott the cover page of the 4/10/79 memo and asked him if this was the same one Mr. Vandel had earlier showed to him. Schott replied that it was. Mr. Vandel was present when this was done.

Mr. Baci then asked Mr. Schott how he had come to hear "rumblings" about NRC's concern, and more specifically, whether anyone from NRC, other than Vandel discussed these concerns with him. Schott stated that no one from NRC had spoken to him but that Irv Peltier (from NRR) had spoken to Mr. Flynn about it (James D. Flynn, CG&E manager of Licensing and Environmental Affairs).

On 5/14/79, Region III Director Keppler told Mr. Baci that he had spoken with Earl Borgmann, CG&E Vice President for Engineering, and advised him that NRC had some questions regarding the utility's testimony before the ACRS subcommittee. Mr. Keppler stated that he had been nonspecific and had not mentioned the particular area NRC was investigating. On May 18, 1979, Mr. Borgmann responded in writing and addressed the specific areas of concern (enclosure D).

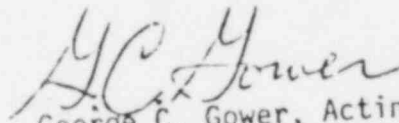
The aforementioned employee actions, if substantiated, would appear to be questionable in the context of 10 CFR 0.735-49A. Those alleged actions which are of concern and which warrant further investigation by OIA include:

Mr. Peltier's contact with the utility and his discussion with CG&E management of a matter under investigation by IE. This is of particular concern since it was done without IE's knowledge or consent and involved a matter having possible elements of criminality.

Mr. Peltier (or a co-worker) allegedly calling Mr. Barth and attempting to influence him, and through him, the ASLB to disregard the matter under investigation and to destroy the memorandum outlining IE's concerns.

Mr. Vandell's apparently unauthorized release to Mr. Schott of the contents of Mr. Keppler's memorandum to Mr. Thompson. This memorandum requested guidance on whether an official investigation should be conducted.

One final area of concern which was voiced by several inspectors and as well as by Regional Management, was the apparent lack of coordination with IE by NRR when dealing with the licensee. In this particular instance, the Region has been trying to impress upon the utility for well over a year that the staffing for the Zimmer Plant, while meeting the minimum requirements of ANSI 18.1, is marginal at best. Trying to translate these IE concerns into action on the part of the utility is difficult enough without having another Office downplay their significance.



George C. Gower, Acting Executive
Officer for Operations Support
Office of Inspection and Enforcement

Enclosures:
As stated

cc: James G. Keppler, Director, Region III
William J. Ward, X00S:IE

UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
733 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137

April 10, 1979

MEMORANDUM FOR: Dudley Thompson, Executive Officer for Operations Support, IE

FROM: James G. Keppler, Director

SUBJECT: ERRONEOUS STATEMENTS PROVIDED BY APPLICANT
AT ZIMMER ACRS SUBCOMMITTEE MEETING (AITS F30488H6)

Enclosed for your information and action is a summary statement relative to erroneous information provided by Cincinnati Gas and Electric Company to the ACRS during an ACRS Subcommittee Meeting on February 27, 1979. As we view it, the following points are pertinent:

1. The applicant clearly made false statements to the ACRS Subcommittee. After agreeing with NRC inspectors that this information was incorrect, the applicant failed to correct the false information during the subsequent ACRS Full Committee Meeting after indicating he would do so.
2. ACRS meetings do not involve sworn or notarized testimony. While we consider misleading the ACRS to be a matter of serious concern, we question our enforcement capabilities in this regard.
3. The applicant is meeting the minimum staffing requirements outlined in ANSI 18.1. The misinformation relates to commitments over and above these minimum staffing requirements.

Consistent with the above, we have the following recommendations and questions:

1. ELD, ASLB and ACRS should be informed of this matter (NRR was informed prior to the ACRS Full Committee Meeting).
2. An evaluation should be made as to whether this misinformation constitutes "material false statements."

Dudley Thompson

- 2 -

4/10/79

3. We have not pursued with licensee management why they did not clarify the misinformation at the Full Committee Meeting. Should we confront management as to why the false statements weren't corrected? Should we conduct an official investigation including signed statements?

If you desire further information relative to this matter, please contact me.

Charles E. Noe

for James G. Reppler
Director

Enclosure:
As stated

cc w/encl:
N. C. Moseley, IE
H. D. Thornburg, IE

STATEMENT OF FACTS REGARDING ERRONEOUS INFORMATION
GIVEN BY APPLICANT AT ZIMMER ACRS SUBCOMMITTEE MEETING

The Advisory Committee on Reactor Safeguards (ACRS) held a subcommittee meeting on February 27, 1979 to review the application of the Cincinnati Gas and Electric Company (CG&E) for a license to operate the Wm. E. Zimmer Nuclear Power Station, Unit 1. During the course of this meeting, the Station Superintendent, in response to questions from the ACRS, provided information on the capability of the utility to provide adequate back-up personnel for key positions in the event of a resignation, prolonged illness, etc.

It was stated that CG&E is now developing the back-up capability within the staff by designating alternate members of their station technical staff to act as backup to maintenance, operations, and other key second-line supervisory positions. This was being done to avoid a situation similar to one they had recently experienced --- loss of the maintenance supervisor who they have had difficulty replacing. According to CG&E, these designated personnel would have the same training as the primary personnel, but not necessarily the immediate experience. Individuals are assigned on a one-to-one relationship as a second-line assistant to the principal, with no other function. The applicant noted that, while this capability is being provided, they had not committed to these actions with the NRC staff.

In the course of reviewing the applicant's program for Preoperational Testing, NRC inspectors had expressed concerns regarding the adequacy of station staffing and, because of these concerns, have followed the status of station staffing closely over the past year. The applicant's statements at the ACRS Subcommittee Meeting appeared to be contrary to our knowledge of the station staffing.

As a result of these apparent contradictions, these statements were discussed with the Station Superintendent during an inspection the week following the ACRS Subcommittee Meeting. The station superintendent stated that there was presently no formal staff contingency plan as described at the Subcommittee Meeting. The station superintendent stated that he would discuss clarification of these statements with his management prior to the ACRS Full Committee Meeting. At the Full Committee Meeting on March 9, 1979, however, the applicant provided no clarification of his earlier statements with regard to staffing.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

Enclosure B

MAY 02 1979

MEMORANDUM FOR: James G. Keppler, Director, RIII

FROM: Dudley Thompson, Executive Officer for Operations Support, IE

SUBJECT: APPARENT FALSE STATEMENTS BY APPLICANT AT ZIMMER ACRS SUBCOMMITTEE MEETING (AITS F30488H6)

In your memorandum of April 10, 1979, (enclosed) you advised IE:HQ that the Zimmer station superintendent had apparently provided false or erroneous information to the NRC - initially to an ACRS Subcommittee meeting on February 27, 1979, and subsequently to an ACRS Full Committee meeting on March 9, 1979. We understand that an NRC inspector was present during both ACRS meetings and that transcripts of both proceedings are available to you. We also understand that the station superintendent, Zimmer Nuclear Power Station, when interviewed during an inspection in early March 1979, admitted that the information provided the ACRS Subcommittee was untrue, indicated that it would be corrected at the Full Committee meeting, but failed to do so.

The foregoing was discussed with Mr. Charles A. Barth, Attorney, Hearing Division, ELD on April 30, 1979 who has been involved with the licensing hearings regarding Zimmer. Mr. Barth feels that an investigation of this matter is clearly warranted. Barth pointed out that not only does it raise some question regarding the accuracy of information provided NRC by the applicant, but that the issue involved - the general topic of operator qualification - is of particular interest to the NRC. He further recommended that ASLB, ACRS and NRR be advised both of the content of your memorandum and receive copies of your report of investigation. This matter was also discussed with Mr. Roger Fortuna, OIA, on April 30, 1979, who indicated that his Office would review your report for possible evidence of criminality such as violation of 18 USC 1001.

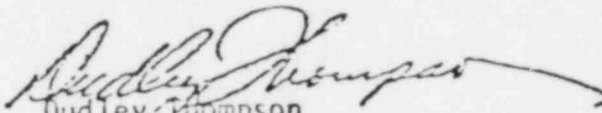
We share Mr. Barth's opinion and recommend that RIII conduct a full investigation of this matter. Signed statements should be obtained from the NRC inspectors who attended the ACRS meetings and those who interviewed the station superintendent during the inspection where his ACRS testimony was discussed. The interview of the station superintendent should, if possible, result in a written statement from him describing both his reason and motivation for making the

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MAY 02 1979

statement. Upon completion of your investigation, we will take care of providing copies of your report to interested offices at Headquarters.

The above information was discussed with Chuck Norelius on May 1, 1979. Please feel free to contact either Bill Ward or Pete Baci of my staff if you need any additional information.


Dudley Thompson
Executive Officer for
Operations Support, IE

Enclosure:
Memo JGKeppler to DThompson
dtd 4/10/79

cc w/enclosure:
C. A. Barth, ELD
R. A. Fortuna, OIA
G. R. Klingler, ROI
N. C. Moseley, ROI
H. D. Thornburg, RCI
J. R. Yore, ASLB
M. W. Carbon, ACRS
H. R. Denton, NRR

STATEMENT

I, Terry L. Harpster, Reactor Inspector, USNRC, (SS# 209-32-3338), employed in the Office of Inspection and Enforcement, Region III, was contacted by Peter E. Baci, Investigator, USNRC on 5/21/79 at 1:30 p.m. at Region III Office in Glen Ellyn, Illinois. I was advised of the nature of the inquiry and make the following statement voluntarily.

I was assigned as the project inspector for the Zimmer Station in October 1977. I developed an increasing concern regarding the adequacy of the station staffing at Zimmer as documented in inspection reports during the months of March, August and November 1978 (50-358/78-06, 78-11 and 78-20). The immediate concern was the ability of the existing staff to adequately conduct the preoperational test and start-up programs. A second concern was the extensive use of contracted personnel for technical support. Much of the base-line knowledge and experience gained as a result of their participation in the start-up and test program would be lost with their departure 5/21/79. By this I mean that Zimmer station personnel will not gain the experience and training necessary for subsequent plant operations but that this experience and training will largely benefit only the contract personnel. The third concern was the adequacy of the corporate technical support. There was minimal involvement of the corporate technical staff in the preoperational test program. One specific area of concern was the lack of reactor instrumentation and control systems expertise. These concerns were discussed at various times with both the station management and CG&E corporate management (including James Schott, Station Superintendent, Steve Salay, Manager, Electric Production and Earl A. Borgmann, Vice President, Engineering Services and Electric Production).

A meeting was held on July 13, 1978 in Bethesda, Maryland to discuss weaknesses in the utility's organizational staffing. The meeting was attended by CG&E management, NRC Division of Project Management (NRR) and myself. Messrs Borgmann, Schott, Salay and Flynn (licensing manager) represented CG&E. Messrs, Don Skovholt (Assistant Director for Quality Assurance and Operations), Walt Haass (Chief, Quality Assurance Branch) and Irving Peltier (Licensing Project Manager) represented NRR. A subsequent meeting was held on September 21, 1978 at the CG&E corporate office in Cincinnati. Attending were Messrs, Salay and Schott representing CG&E and Messrs Harpster and Robert Warnick (Chief, Reactor Projects, Section 2, RIII) representing NRC. The lack of progress in augmenting the existing station staff was discussed with regard to its impact on the preoperational test program, operational preparedness of the station and the fuel load date. Specific concerns were the lack of a maintenance supervisor, a reactor engineer who met the requirements of ANSI 18.1, the size of the station technical support staff, and involvement of the corporate technical support staff in the preoperational test program. In the period following these meetings and prior to the ACRS subcommittee meeting on February 27, 1979 an additional nuclear engineer was hired who met the ANSI 18.1 qualifications for reactor engineer. This man was placed on site to augment the existing nuclear engineer until the existing nuclear engineer meets the ANSI 18.1 qualifications. A mechanical engineering nuclear section was formed by CG&E in the corporate office to support site operations and the entire staff was moved onto the site. A quality assurance technician was contracted for to assist the station quality engineer. The station training supervisor resigned and was replaced by contracted

help from the General Physics Corporation. The station was still at this time without a maintenance supervisor.

As of the ACRS subcommittee meeting on 2/27/79 the scheduled fuel load date was June 1979. On 2/27/79 John Menning and I attended the ACRS subcommittee meeting to review the application of CG&E for a license to operate the Zimmer station. We were not participants in the meeting but attended as observers. In response to questions from ACRS members, James Schott (Station Superintendent) discussed the ability of the station to provide adequate backup support in the event of the loss of key personnel. Subcommittee Chairman Bender posed this question because of the apparent lack of depth in the organization. In response to Chairman Bender's question Mr. Schott stated that alternate members of the station technical staff were being designated to act as back up to key supervisory positions. In subsequent statements Mr. Schott stated that these people designated as backups would not have other jobs. In other words they would function as full time assistants to the supervisors they were backing up. These statements were contrary to my knowledge which was obtained through my inspections of the utility staffing and my conversations with both station and corporate management. Because I was not a participant, I did not object to this testimony at the meeting but I did, however, inform regional management of the substance of the testimony upon my return from the meeting. Also, at the adjournment of the meeting I informed the licensing project manager, Mr. Peltier; that I did not believe Mr. Schott's testimony reflected what actually existed with respect to Zimmer staffing capabilities. Upon my return to the region I discussed the testimony with my supervisor, Mr. Warnick, and I proposed that I go to Zimmer

and discuss the testimony with Mr. Schott. On March 5-6, 1979 John Menning and I went to the Zimmer site to discuss the testimony with Mr. Schott. John Menning, Jim Schott and I discussed station staffing and our respective interpretations of the ACRS testimony. Mr. Schott did not have available a transcript of the ACRS testimony so I suggested we call the regional office and have Mr. Warnick read the applicable portions of the transcript to Mr. Schott over the telephone. I informed Mr. Schott that it was my opinion that his testimony misled the ACRS subcommittee in that I was unaware that any formal contingency plan as described in the testimony was now being developed to provide backups to key supervisory personnel. It was also my opinion that adequate technical staff was not presently available to provide full time backups as described. I suggested to Mr. Schott that perhaps there was information regarding staffing available that John Menning and myself were not aware of as a result of our inspections and conversations with station management over the past year and a half. Mr. Schott indicated that he had not intended to give the impression that such a plan had been implemented nor that they had the personnel to provide full time backups for all key positions. On the morning of March 6, 1979, Mr. Warnick read the applicable portions of the transcript to Mr. Schott and myself over the telephone on a conference box. After hearing the transcript Mr. Schott indicated he could see how his testimony might be misleading. He also indicated that this was because he hadn't been prepared to address those questions in depth. Mr. Schott stated that he would discuss clarification of his testimony with his management prior to the full committee (ACRS) on March 9, 1979. At that point I was satisfied that the matter would be clarified at the full committee meeting. On March 9, 1979 John Menning and I attended the full

committee meeting, again as observers. The subject of staffing was again discussed in depth however CG&E offered no clarification of statements made at the subcommittee meeting. Upon my return from the full committee hearing I discussed the ACRS testimony with regional management and the decision was made to forward a statement of facts to IE Headquarters recommending that ACRS be made that I viewed the testimony as misleading. It is my concern that the Zimmer station staff, while meeting the minimum requirements of ANSI 18.1, does not have the ability to provide adequate backup for losses of key supervisory personnel and that for a staff which has minimal prior nuclear experience this should carefully be considered when recommending the issuance of an operating license. Since the ACRS recommendation is part of the licensing and hearing process, I feel strongly that ACRS is entitled to complete and accurate information both from the licensee and the NRC staff.

On May 18, 1979 I was requested by my Branch Chief, Mr. Heishman to contact the Zimmer licensing project manager (Irv Peltier) in response to questions regarding the May 2, 1979 letter from Dudley Thompson to James Keppler addressing the ACRS testimony. The specific concern was that neither John Stolz (Irv Peltier's supervisor) nor Peltier recall being informed of my concern that the testimony relevant to staffing at the ACRS subcommittee was questionable. On May 18 I discussed the events with Peltier over the telephone. In the course of our conversation Mr. Peltier did not recall my having addressed my concerns to him after the subcommittee meeting on February 27. Mr. Peltier stated that he had discussed my concerns regarding the testimony with CG&E and that they (CG&E) were satisfied with their

THE CINCINNATI GAS & ELECTRIC COMPANY

Enclosure D
CINCINNATI OHIO 45201

May 18, 1979

E. A. BORGMANN
VICE PRESIDENT-ENGINEERING

James G. Keppler
Director
United States Nuclear Regulatory Commission
Region III
799 Roosevelt Road
Glen Ellyn, Illinois 60137

Dear Mr. Keppler:

I am writing you concerning our telephone conversation of May 14 during which you indicated that Region III wished to interview some of our people further with regard to certain statements made to the Advisory Committee on Reactor Safeguards (ACRS). These statements apparently concerned our staffing plan and some conflict between the statements made and our actual staffing intentions. Obviously, I was quite concerned and looked into the matter promptly. The facts in this matter from our standpoint are as follows:

Following the subcommittee meeting, Mr. Harpster, your inspector, along with his supervisor, Mr. Warnick, telephoned Mr. James R. Schott, our plant superintendent, and voiced his feelings to the effect that CG&E's plans with respect to backup personnel should be clarified at the full ACRS meeting. Mr. Schott advised Mr. Harpster that he had not seen the transcript but indicated that he had not tried to mislead anyone with his testimony.

After Mr. Harpster's call to Mr. Schott, we reviewed the transcript of the ACRS subcommittee meeting of February 27 and concluded that we agreed with Mr. Schott's testimony concerning backup capability. Apparently any problem stems from the discussion of backup to operating personnel between Subcommittee Chairman Bender and Mr. Schott. In essence, Mr. Bender was trying to assure himself that adequate backup would exist for each key supervisor. The maintenance supervisor was used as the example in the discussion which was prompted in part by the fact that our former maintenance supervisor had resigned.

What Mr. Schott stated was that backup capability would be assured at the second line supervisory level and would be full time. Our intention is to have a dedicated backup for each of the following sections: operating, maintenance, I & C, rad-chem, technical, and training. It was not our intention, however, to

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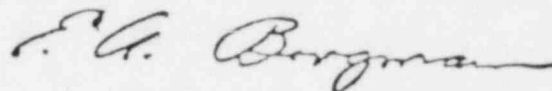
May 18, 1979

necessarily give these backup personnel the title of "Assistant" per se.

Both CG&E and Mr. Schott personally believe that our intentions were clarified at the full committee meeting by describing the roles of the maintenance engineer and the other supervisors, including their support. This was done through the use of a view graph and Xerox copies of the plant organization chart which were distributed to members of the committee. It was not until your call that anyone at CG&E had knowledge that this matter had not been fully resolved to Mr. Barpster's satisfaction.

I hope this letter now resolves this matter to the satisfaction of Region III. However, in the event you wish to discuss the subject further with our personnel, we will be pleased to cooperate. As you know, the pre-hearing conferences are scheduled for May 21-23 with the evidentiary hearing scheduled to begin on June 19. For this reason, timely resolution of this apparent misunderstanding is essential.

Very truly yours,



E. A. Borgmann
Senior Vice-President

UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
799 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137

April 10, 1979

MEMORANDUM FOR: Dudley Thompson, Executive Officer for Operations Support, IE

FROM: James G. Keppler, Director

SUBJECT: ERRONEOUS STATEMENTS PROVIDED BY APPLICANT
AT ZIMMER ACRS SUBCOMMITTEE MEETING (AITS F30488H6)

Enclosed for your information and action is a summary statement relative to erroneous information provided by Cincinnati Gas and Electric Company to the ACRS during an ACRS Subcommittee Meeting on February 27, 1979. As we view it, the following points are pertinent:

1. The applicant clearly made false statements to the ACRS Subcommittee. After agreeing with NRC inspectors that this information was incorrect, the applicant failed to correct the false information during the subsequent ACRS Full Committee Meeting after indicating he would do so.
2. ACRS meetings do not involve sworn or notarized testimony. While we consider misleading the ACRS to be a matter of serious concern, we question our enforcement capabilities in this regard.
3. The applicant is meeting the minimum staffing requirements outlined in ANSI 18.1. The misinformation relates to commitments over and above these minimum staffing requirements.

Consistent with the above, we have the following recommendations and questions:

1. ELD, ASLB and ACRS should be informed of this matter (NRR was informed prior to the ACRS Full Committee Meeting).
2. An evaluation should be made as to whether this misinformation constitutes "material false statements."

Attachment B

Dudley Thompson

- 2 -

4/10/79

3. We have not pursued with licensee management why they did not clarify the misinformation at the Full Committee Meeting. Should we confront management as to why the false statements weren't corrected? Should we conduct an official investigation including signed statements?

If you desire further information relative to this matter, please contact me.

Charles T. Noe

for James G. Keppler
Director

Enclosure:
As stated

cc w/encl:
N. C. Moseley, IE
H. D. Thornburg, IE

STATEMENT OF FACTS REGARDING ERRONEOUS INFORMATION
GIVEN BY APPLICANT AT ZIMMER ACRS SUBCOMMITTEE MEETING

The Advisory Committee on Reactor Safeguards (ACRS) held a subcommittee meeting on February 27, 1979 to review the application of the Cincinnati Gas and Electric Company (CG&E) for a license to operate the Wm. H. Zimmer Nuclear Power Station, Unit 1. During the course of this meeting, the Station Superintendent, in response to questions from the ACRS, provided information on the capability of the utility to provide adequate back-up personnel for key positions in the event of a resignation, prolonged illness, etc.

It was stated that CG&E is now developing the back-up capability within the staff by designating alternate members of their station technical staff to act as backup to maintenance, operations, and other key second-line supervisory positions. This was being done to avoid a situation similar to one they had recently experienced --- loss of the maintenance supervisor who they have had difficulty replacing. According to CG&E, these designated personnel would have the same training as the primary personnel, but not necessarily the immediate experience. Individuals are assigned on a one-to-one relationship as a second-line assistant to the principal, with no other function. The applicant noted that, while this capability is being provided, they had not committed to these actions with the NRC staff.

In the course of reviewing the applicant's program for Preoperational Testing, NRC inspectors had expressed concerns regarding the adequacy of station staffing and, because of these concerns, have followed the status of station staffing closely over the past year. The applicant's statements at the ACRS Subcommittee Meeting appeared to be contrary to our knowledge of the station staffing.

As a result of these apparent contradictions, these statements were discussed with the Station Superintendent during an inspection the week following the ACRS Subcommittee Meeting. The station superintendent stated that there was presently no formal staff contingency plan as described at the Subcommittee Meeting. The station superintendent stated that he would discuss clarification of these statements with his management prior to the ACRS Full Committee Meeting. At the Full Committee Meeting on March 9, 1979, however, the applicant provided "no clarification of his earlier statements with regard to staffing.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

Enclosure B

MAY 02 1979

*Re -
extra to look
a for need for
attachments*

MEMORANDUM FOR: James G. Keppler, Director, RIII
FROM: Dudley Thompson, Executive Officer for Operations Support, IE
SUBJECT: APPARENT FALSE STATEMENTS BY APPLICANT AT ZIMMER ACRS SUBCOMMITTEE MEETING (AITS F30488H6)

In your memorandum of April 10, 1979, (enclosed) you advised IE:HQ that the Zimmer station superintendent had apparently provided false or erroneous information to the NRC - initially to an ACRS Subcommittee meeting on February 27, 1979, and subsequently to an ACRS Full Committee meeting on March 9, 1979. We understand that an NRC inspector was present during both ACRS meetings and that transcripts of both proceedings are available to you. We also understand that the station superintendent, Zimmer Nuclear Power Station, when interviewed during an inspection in early March 1979, admitted that the information provided the ACRS Subcommittee was untrue, indicated that it would be corrected at the Full Committee meeting, but failed to do so.

The foregoing was discussed with Mr. Charles A. Barth, Attorney, Hearing Division, ELD on April 30, 1979 who has been involved with the licensing hearings regarding Zimmer. Mr. Barth feels that an investigation of this matter is clearly warranted. Barth pointed out that not only does it raise some question regarding the accuracy of information provided NRC by the applicant, but that the issue involved - the general topic of operator qualification - is of particular interest to the NRC. He further recommended that ASLB, ACRS and NRR be advised both of the content of your memorandum and receive copies of your report of investigation. This matter was also discussed with Mr. Roger Fortuna, OIA, on April 30, 1979, who indicated that his Office would review your report for possible evidence of criminality such as violation of 18 USC 1001.

We share Mr. Barth's opinion and recommend that RIII conduct a full investigation of this matter. Signed statements should be obtained from the NRC inspectors who attended the ACRS meetings and those who interviewed the station superintendent during the inspection where his ACRS testimony was discussed. The interview of the station superintendent should, if possible, result in a written statement from him describing both his reason and motivation for making the

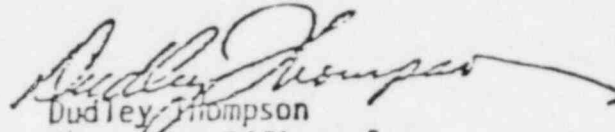
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Attachment C

MAY 02 1979

statement. Upon completion of your investigation, we will take care of providing copies of your report to interested offices at Headquarters.

The above information was discussed with Chuck Norelius on May 1, 1979. Please feel free to contact either Bill Ward or Pete Baci of my staff if you need any additional information.


Dudley Thompson
Executive Officer for
Operations Support, IE

Enclosure:

Memo JGKeppler to DThompson
dtd 4/10/79

cc w/enclosure:

C. A. Barth, ELD
R. A. Fortuna, OIA
G. R. Klingler, ROI
N. C. Moseley, ROI
H. D. Thornburg, RCI
J. R. Yore, ASLB
M. W. Carbon, ACRS
H. R. Denton, NRR

UNITED STATES
NUCLEAR REGULATORY COMMISSION—
REGION III
799 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137

April 10, 1979

MEMORANDUM FOR: Dudley Thompson, Executive Officer for Operations Support, IE

FROM: James G. Keppler, Director

SUBJECT: ERRONEOUS STATEMENTS PROVIDED BY APPLICANT
AT ZIMMER ACRS SUBCOMMITTEE MEETING (AITS F3048BH6)

Enclosed for your information and action is a summary statement relative to erroneous information provided by Cincinnati Gas and Electric Company to the ACRS during an ACRS Subcommittee Meeting on February 27, 1979. As we view it, the following points are pertinent:

1. The applicant clearly made false statements to the ACRS Subcommittee. After agreeing with NRC inspectors that this information was incorrect, the applicant failed to correct the false information during the subsequent ACRS Full Committee Meeting after indicating he would do so.
2. ACRS meetings do not involve sworn or notarized testimony. While we consider misleading the ACRS to be a matter of serious concern, we question our enforcement capabilities in this regard.
3. The applicant is meeting the minimum staffing requirements outlined in ANSI 18.1. The misinformation relates to commitments over and above these minimum staffing requirements.

Consistent with the above, we have the following recommendations and questions:

1. ELD, ASLB and ACRS should be informed of this matter (NRR was informed prior to the ACRS Full Committee Meeting).
2. An evaluation should be made as to whether this misinformation constitutes "material false statements."

4/10/79

- 2 -

Dudley Thompson

3. We have not pursued with licensee management why they did not clarify the misinformation at the Full Committee Meeting. Should we confront management as to why the false statements weren't corrected? Should we conduct an official investigation including signed statements?

If you desire further information relative to this matter, please contact me.

Charles E. Noe
for James G. Keppler
Director

Enclosure:
As stated

cc w/encl:
N. C. Moseley, IE
H. D. Thornburg, IE

STATEMENT OF FACTS REGARDING ERRONEOUS INFORMATION
GIVEN BY APPLICANT AT ZIMMER ACRS SUBCOMMITTEE MEETING

The Advisory Committee on Reactor Safeguards (ACRS) held a subcommittee meeting on February 27, 1979 to review the application of the Cincinnati Gas and Electric Company (CG&E) for a license to operate the Wm. H. Zimmer Nuclear Power Station, Unit 1. During the course of this meeting, the Station Superintendent, in response to questions from the ACRS, provided information on the capability of the utility to provide adequate back-up personnel for key positions in the event of a resignation, prolonged illness, etc.

It was stated that CG&E is now developing the back-up capability within the staff by designating alternate members of their station technical staff to act as backup to maintenance, operations, and other key second-line supervisory positions. This was being done to avoid a situation similar to one they had recently experienced -- loss of the maintenance supervisor who they have had difficulty replacing. According to CG&E, these designated personnel would have the same training as the primary personnel, but not necessarily the immediate experience. Individuals are assigned on a one-to-one relationship as a second-line assistant to the principal, with no other function. The applicant noted that, while this capability is being provided, they had not committed to these actions with the NRC staff.

In the course of reviewing the applicant's program for Preoperational Testing, NRC inspectors had expressed concerns regarding the adequacy of station staffing and, because of these concerns, have followed the status of station staffing closely over the past year. The applicant's statements at the ACRS Subcommittee Meeting appeared to be contrary to our knowledge of the station staffing.

As a result of these apparent contradictions, these statements were discussed with the Station Superintendent during an inspection the week following the ACRS Subcommittee Meeting. The station superintendent stated that there was presently no formal staff contingency plan as described at the Subcommittee Meeting. The station superintendent stated that he would discuss clarification of these statements with his management prior to the ACRS Full Committee Meeting. At the Full Committee Meeting on March 9, 1979, however, the applicant provided no clarification of his earlier statements with regard to staffing.

THE CINCINNATI GAS & ELECTRIC COMPANY

CINCINNATI OHIO 45201

May 18, 1979

E. A. BORGMANN
VICE PRESIDENT - ENGINEERING

James G. Keppler
Director
United States Nuclear Regulatory Commission
Region III
799 Roosevelt Road
Glen Ellyn, Illinois 60137

Dear Mr. Keppler:

I am writing you concerning our telephone conversation of May 14 during which you indicated that Region III wished to interview some of our people further with regard to certain statements made to the Advisory Committee on Reactor Safeguards (ACRS). These statements apparently concerned our staffing plan and some conflict between the statements made and our actual staffing intentions. Obviously, I was quite concerned and looked into the matter promptly. The facts in this matter from our standpoint are as follows:

Following the subcommittee meeting, Mr. Harpster, your inspector, along with his supervisor, Mr. Warnick, telephoned Mr. James R. Schott, our plant superintendent, and voiced his feelings to the effect that CG&E's plans with respect to backup personnel should be clarified at the full ACRS meeting. Mr. Schott advised Mr. Harpster that he had not seen the transcript but indicated that he had not tried to mislead anyone with his testimony.

After Mr. Harpster's call to Mr. Schott, we reviewed the transcript of the ACRS subcommittee meeting of February 27 and concluded that we agreed with Mr. Schott's testimony concerning backup capability. Apparently any problem stems from the discussion of backup to operating personnel between Subcommittee Chairman Bender and Mr. Schott. In essence, Mr. Bender was trying to assure himself that adequate backup would exist for each key supervisor. The maintenance supervisor was used as the example in the discussion which was prompted in part by the fact that our former maintenance supervisor had resigned.

What Mr. Schott stated was that backup capability would be assured at the second line supervisory level and would be full time. Our intention is to have a dedicated backup for each of the following sections: operating, maintenance, I & C, rad-chem, technical, and training. It was not our intention, however, to

Y 21 1979

ATTACHMENT D

May 18, 1979

necessarily give these backup personnel the title of "Assistant" per se.

Both CG&E and Mr. Schott personally believe that our intentions were clarified at the full committee meeting by describing the roles of the maintenance engineer and the other supervisors, including their support. This was done through the use of a view graph and Xerox copies of the plant organization chart which were distributed to members of the committee. It was not until your call that anyone at CG&E had knowledge that this matter had not been fully resolved to Mr. Barpster's satisfaction.

I hope this letter now resolves this matter to the satisfaction of Region III. However, in the event you wish to discuss the subject further with our personnel, we will be pleased to cooperate. As you know, the pre-hearing conferences are scheduled for May 21-23 with the evidentiary hearing scheduled to begin on June 19. For this reason, timely resolution of this apparent misunderstanding is essential.

Very truly yours,



E. A. Borgmann
Senior Vice-President



UNITED STATES
 NUCLEAR REGULATORY COMMISSION
 REGION III
 799 ROOSEVELT ROAD
 GLEN ELLYN, ILLINOIS 60137

J. Petter

July 31, 1979

MEMORANDUM FOR: George Gower, Acting Executive Officer for Operations Support, IE

FROM: James G. Keppler, Director, Region III

SUBJECT: ZIMMER - REPORT OF INVESTIGATION INTO LICENSEE STATEMENTS AT ACRS SUBCOMMITTEE MEETING

Attached is Investigation Report No. 50-358/79-21, regarding license statements to the ACRS on staffing of the Zimmer plant. The investigation did not establish that the licensee made false statements. It showed that the licensee and RIII staff have different interpretations of what was meant by the original statements before the ACRS subcommittee and different views of the extent to which the matter was clarified before the full ACRS.

As indicated in Dudley Thompson's memorandum dated May 2, 1979, to me on this subject, we believe the attached report should be provided to ASLB, ACRS and NRR.

We plan the normal distribution of this report to the licensee.

Please let me know if you have any questions regarding the attached report.

James G. Keppler
 James G. Keppler
 Director

Attachment:
 Investigation Rpt. No. 50-358/79-21

cc w/attachment:
 C. Barth, ELD

143267

*Did ACRS
 Receive this report?*

*Waiting for call from Sam or Dick.
 Attachment E*



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
799 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137

JUL 31 1979

Docket No. 50-358

Cincinnati Gas and Electric
Company
ATTN: Mr. Earl A. Borgmann
Vice President
139 East 4th Street
Cincinnati, OH 45201

Gentlemen:

This refers to the investigation conducted by Mr. P. E. Baci of our Headquarters' staff on May 21-24, 1979. This investigation related to the accuracy of statements regarding staffing of the Zimmer Plant made by the licensee during meetings with the Advisory Committee on Reactor Safeguards.

The investigation did not identify any items of noncompliance with NRC requirements nor did it show that CG&E attempted to mislead the ACRS in describing the staffing of the Zimmer Plant. It showed, however, that the clarity of the staffing presentation was subject to different interpretation by CG&E and by members of the Region III staff. Please assure that future statements made in connection with the licensing process are carefully reviewed to assure their accuracy and clarity.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter and the enclosed investigation report will be placed in the NRC's Public Document Room, except as follows. If this report contains information that you or your contractors believe to be proprietary, you must apply in writing to this office, within twenty days of your receipt of this letter, to withhold such information from public disclosure. The application must include a full statement of the reasons for which the information is considered proprietary, and should be prepared so that proprietary information identified in the application is contained in an enclosure to the application.

Cincinnati Gas and Electric
Company

- 2 -

JUL 31 1979

We will gladly discuss any questions you have concerning this investigation.

Sincerely,

James G. Keppler
Director

Enclosure: IE Investigation
Report No. 50-358/79-21

cc w/encl:

Mr. J. R. Schott, Plant
Superintendent
Central Files
Reproduction Unit NRC 20b
PDR
Local PDR
NSIC
TIC
Harold W. Kohn, Power
Siting Commission
Citizens Against a
Radioactive Environment
Helen W. Evens, State
of Ohio

R111

RJM
Bateman
7/23/79

R111

RJM
Kerelius
7/31/79

R111

RJM
Vandel

R111

RJM
Fiorelli

R111

RJM
Keppler
7/31

U.S. NUCLEAR REGULATORY COMMISSION
OFFICE OF INSPECTION AND ENFORCEMENT

REGION III

Report No. 50-358/79-21

Docket No. 50-358

Licensee: Cincinnati Gas and Electric Co.

Facility Name: William H. Zimmer Nuclear Power Station

Investigation At: NRC RIII Office and at the Zimmer site

Investigator *for Charles E. Norelius*
Peter E. Baci
IE Headquarters

7/30/79

Reviewed By: *Charles E. Norelius*
Charles E. Norelius
Assistant to the Director

7/30/79

Investigation Summary: Investigation on May 21-24, 1979 (Report No. 50-358/79-21)

Areas Investigated: Accuracy of Statements made by CG&E before the ACRS regarding staffing of the Zimmer facility. Reviewed records and interviewed NRC and licensee personnel. This investigation involved 32 manhours by one investigator.

Results: IE Staff and CG&E personnel have differing views as to the clarity and accuracy of information presented to the ACRS. No items of noncompliance were identified.

REASON FOR INVESTIGATION

NRC inspectors believed that the licensee misrepresented the Zimmer staffing situation before the Advisory Committee on Reactor Safeguards (ACRS). An investigation was conducted to determine the facts related to the licensee's presentation and to determine if there was any intent on the part of the licensee to misrepresent the facts.

SUMMARY OF FACTS

On February 27, 1979, representatives of CG&E management appeared before an ACRS subcommittee in connection with the utility's application for a license to operate the William H. Zimmer Nuclear Power Station. During the course of the meeting, the subject of plant staffing was addressed, particularly with regard to the adequacy and availability of back-ups for key supervisory personnel. Responding to questions of the subcommittee chairman, the Zimmer Station Superintendent indicated that CG&E was developing a back-up capability within the staff on a "one-to-one relationship as more or less second-line assistants to the principals." When asked if these individuals would have another job as well as being the back-up, he replied:

"No sir. Not necessarily, no sir. That isn't what we had in mind. In other words, if there is a staff member who is assigned as assistant to the maintenance supervisor, that is his function, and he would act as an assistant maintenance supervisor."

Region III inspectors who had an ongoing concern with weaknesses and lack of depth of the Zimmer staff as documented in prior inspection reports and who were present at the subcommittee meeting, felt that the Superintendent's statements concerning staffing were misleading. They interpreted the Superintendent's statements to indicate that a full time back-up was available for all key positions at the site which is at variance with the situation as they knew it to be. This concern was brought to the attention of regional management and the decision was made to discuss the matter with the Plant Superintendent and request clarification of his statements. On March 5-6, 1979 the inspectors visited the Zimmer site and met with the Superintendent. After having the questioned portions of the transcript read to him, the Superintendent stated that he could see where they might be misleading and would discuss their clarification with CG&E management prior to the full ACRS meeting on March 9, 1979.

The plant superintendent again discussed staffing before the ACRS meeting on March 9, 1979. However he did not explicitly discuss the subject in terms of clarifying earlier statements. It is his view that this presentation satisfied the concerns raised. It is the view of the Inspectors

involved that the matter was not clarified and that the licensee's statements to the ACRS on staffing were misleading. No information was developed to show that there was any intent on the part of the licensee to mislead the ACRS with regard to staffing of the Zimmer Plant.

DETAILS

1. Interview with Region II Inspector Terry Harpster

On March 21-23, 1979, the Investigator interviewed Reactor Inspector Terry L. Harpster in the Region III Office in Glen Ellyn, Illinois. Harpster explained that since being assigned to the Zimmer Station in October 1977, he had developed an increasing concern over the adequacy of station staffing. This concern had been discussed with CG&E management on several occasions and was documented in inspection reports during March, August and November of 1978 (DN: 50-358, Report Nos. 78-06, 78-11 and 78-20). Particular concerns were the ability of the existing staff to adequately conduct the preoperational test and start-up programs and the extensive use by CG&E of contract personnel for technical support. The latter created a problem in that much of the experience and knowledge learned during the start-up and test program would be lost with the departure of the contract personnel. Another concern voiced by Harpster was the minimal involvement of the corporate staff in the pre-operational test program. This continued until the formation of a mechanical engineering/nuclear section within the CG&E corporate structure formed to support site operations and which was subsequently moved to the site.

According to Harpster, a meeting was held on July 13, 1979, in Bethesda, Maryland, to discuss weaknesses in the utility's staffing as it related to the Zimmer Plant. CG&E was represented by Messrs. Earl Borgmann, Vice-President/Engineering Services & Electric Production; Steve Salay, Manager, Electric Production; James Flynn, Licensing Manager; and Zimmer Plant Superintendent Schott. NRC was represented by Inspector Harpster of Region III and Messrs. Donald Skovholt, Walter Haase and Irving Peltier of NRR. A subsequent meeting was held on September 21, 1978, at the CG&E corporate offices in Cincinnati with Messrs. Harpster and Robert Warnick representing NRC and Messrs. Schott and Salay representing CG&E. At this meeting, the lack of progress in augmenting the existing station staff was discussed as well as its impact on the preoperational test program, the operational preparedness of the station and the fuel loading date. According to Harpster, particular concerns were the lack of a maintenance supervisor, lack of a reactor engineer who met the requirements of ANSI 18.1, the size of the station staff and the involvement of the corporate technical staff in the preoperational test program.

Harpster stated that on February 27, 1979, he and Inspector John Menning attended the ACRS subcommittee meeting on Zimmer as observers. He stated that the Chairman, Mr. Bender, raised the question of the station's ability to provide adequate back-up support in the event of the loss of key personnel. Superintendent Schott's reply indicated that alternate members of the station staff were being designated to

act as backup to key supervisory positions and that these people would not have other jobs. Harpster stated that he understood that to mean these individuals would function as full-time assistants to the supervisors they were backing up. He felt that Mr. Schott's statements were contrary to his knowledge of the staffing situation gained through inspections and discussions with corporate management, including Mr. Schott. At the close of the meeting, Harpster informed Irving Peltier (licensing project manager, NRR) that he felt Schott's testimony did not reflect the true staffing situation at Zimmer.

Upon his return to Region III, Harpster informed regional management of his concerns re Schott's testimony and the decision was made to have him travel to Zimmer and discuss the matter with Mr. Schott. On March 5 and 6, 1979, Inspectors Menning and Harpster met with Mr. Schott and discussed their respective interpretations of Schott's testimony. Harpster informed Schott that he felt his testimony mislead the ACRS subcommittee since he was unaware that any formal contingency plan existed or was being developed such as Schott had described to the panel. Harpster further told Schott that it was his opinion that adequate technical staff was not available to provide fulltime back-ups as described. He asked Schott if perhaps there was information concerning this capability that he was not aware of.

According to Harpster, Schott said he had not intended to give the impression that such a plan had been implemented or that they had the personnel to provide full time back-ups for all key positions. On the morning of March 6, 1979, Harpster was present while the relevant portions of the testimony were read to Schott over the phone by Robert Warnick (Chief, Reactor Projects Section 2, Region III). After hearing his testimony, Schott indicated to Harpster that he could see how it might be misleading, but that this was because he hadn't been prepared to address those questions in depth. Schott then told Harpster that he would discuss clarification of his testimony with CG&E management prior to the full ACRS meeting scheduled for March 3, 1979.

Harpster and Menning both attended the ACRS meeting on March 9, 1979. Harpster stated that although the matter of staffing was discussed in depth, he felt that CG&E offered no clarification of its earlier misleading statements. He advised regional management of his continued concerns and these were further reflected in a memorandum and statement of facts provided to IE/HQS on April 10, 1979.

Harpster stated that his primary concern was that while the Zimmer station staff might meet the minimum requirements of ANSI 18.1, the ability to provide adequate back-up for key supervisory personnel

was questionable. Harpster's opinion is based on his inspection experience at Zimmer and on the minimal prior nuclear experience of the staff. A copy of Inspector Harpster's written statement is appended to this report.

2. Interview with RIII Inspector John Menning

On May 21, 1979, the Investigator interviewed Reactor Inspector John Menning in the Region III Office in Glen Ellyn, Illinois. Menning described his knowledge of the Zimmer Plant staff situation as gained through periodic inspections of the facility from October 1978 to the present. Menning's description of the staffing situation basically agrees with that of Inspector Harpster. With Harpster, he attended the February 27, 1979, ACRS subcommittee meeting and heard the testimony of Station Superintendent James Schott relative to the utility's back-up capability for key supervisory personnel. Menning felt that Schott's description of CG&E's back-up plan was not consistent with the utility's planned or existing capability as he knew it to exist. He indicated that he and Harpster made this concern known to Region III management after their return and also discussed the matter with Mr. Schott on March 5-6, 1979.

According to Menning, Schott indicated that he had not intended to give the ACRS subcommittee the impression that the plant had established or was planning to establish a formal structured program for the development of fulltime back-ups for key personnel. He told Menning that he had only intended to communicate that individuals existed on his staff who could function as backups to key staff members and that if the transcript of the subcommittee meeting reflected otherwise, then a clarification might be in order.

At the meeting of the ACRS on March 9, 1979, the capabilities of the plant staff were discussed, but Menning, who was present as an observer, felt that the matter of the misleading statements remained unresolved. Along with Inspector Harpster, Menning expressed his continued concern to Region III management upon his return from the ACRS meeting. A copy of Inspector Menning's written statement is appended to this report.

3. Other Interviews with NRC Personnel

The following NRC personnel were also interviewed with regard to the matter under investigation:

James G. Keppler, Director, Region III
Gen W. Roy, Deputy Director, Region III
Charles E. Norelius, Assistant to the Director, Region III
Robert Warnick, Chief, Reactor Projects Section 2, Region III
Robert F. Heishman, Chief, Reactor Operations & Nuclear Support
Branch, Region III

Those interviewed are all Region III management personnel who were aware of the problem with the apparent misleading statements at the ACRS subcommittee meeting. The concern of Inspectors Harpster and Menning was shared by Region III management and resulted in the instant investigation.

4. Interview with James R. Schott

On May 24, 1979, Zimmer Station Superintendent James R. Schott was interviewed by the Investigator at the plant site in Clermont, Ohio. Also present during the interview were Thomas Vandell, Project Inspector, USNRC, Region III and W. W. Schwieters, Principal Quality Assurance and Standards Engineer, CG&E. Mr. Schott was advised of the nature of the NRC investigation and provided a signed statement, a copy of which is appended to this report.

Mr. Schott discussed his testimony before the ACRS subcommittee and was aware of the fact that NRC had regarded some of his statements as misleading. He stated that Inspector Harpster had advised him of NRC's concerns when he met with him at the plant site subsequent to the ACRS subcommittee meeting on February 27, 1979, Schott stated that after having the transcript of his testimony read to him by Robert Warnick (USNRC, RI III), he had initially agreed with Inspector Harpster that his testimony could be misinterpreted and had agreed to discuss its clarification with his management. He further stated that after reviewing the testimony and discussing it with management, that they had concluded that his original statements were correct.

When asked to clarify his earlier statements to the ACRS, Schott stated that CG&E was providing backup capability to key positions by designating alternate members of the technical staff to serve as backups for second-line supervisors. He stated that this backup capability would be on a one-to-one basis, with backups serving as "more-or-less second-line assistants to the principals."

Schott's testimony, in response to questioning from Subcommittee Chairman Bender, indicated that the backup would not have another job in addition to being backup; further, that "if there is a staff member who is assigned as assistant to the maintenance supervisor, that is his function; and he would act as an assistant maintenance supervisor." This was the aspect of Schott's testimony which the inspectors regarded as misleading, namely, that a fulltime backup did not exist and was not planned who would function solely as an assistant to the principal. Schott explained that what he meant was that the backup would be a fulltime employee, working for the principal in the same area (i.e. maintenance, operations, rad-chem, etc.). When queried about his statement that the individual would not have another job, his explanation was that he would not be working or have any responsibilities in another area.

Mr. Schott stated that he presented a staffing chart to the full ACRS meeting on March 9, 1979, which he briefly reviewed with the aid of an overhead projector. He said that he felt his presentation satisfied all concerns and expressed surprise and ire when he learned that NRC was conducting an investigation into the matter.

Schott felt that E. A. Borgmann's letter to Director Keppler, dated May 18, 1979, (copy attached) clarified the situation; but nevertheless provided in his statement a detailed account of the CG&E plan for ensuring backup for supervisory personnel. It should be noted that Mr. Schott does not intend to formalize the backup plan he describes.

5. Review of Records Documents

The following records/documents were reviewed by the Investigator during the course of the investigation:

Inspection Report 50-358/78-06 3/22/78
Inspection Report 50-358/78-11 8/2/78
Inspection Report 50-358/78-20 11/17/78
Safety Evaluation Report - NRR 1/79
Final Safety Analysis Report - Revision 41 - 3/78
American National Standards Institute Selection and Training of Nuclear Power Plant Personnel - N18.11971

A review of the Inspection Reports cited above revealed a continuing concern on the part of NRC as to the adequacy of Zimmer Station staffing. Comments from the inspection reports include:

"...the qualifications of the personnel selected for review will meet the minimum regulatory requirements prior to fuel load, however, the cumulative prior nuclear experience is minimal..." (#78-06)

"...the corporate technical staff need to gain a baseline familiarity with the facility systems to be able to adequately augment the site personnel's expertise..." (#78-11)

"The size and limited experience of the plant staff would not be adequate to cope with the additional staffing problems created as a result of normal attrition of personnel during the startup and test programs." (#78-11)

"Because of the heavy reliance on contracted technical support, much of the baseline knowledge and experience gained as a result of participation in the startup and test program would leave with the contracted support personnel." (#78-11)

"We do wish to point out a potential staffing problem as it relates to the support of the preoperational testing program,

which if not resolved in a timely manner could have a negative impact on the operational preparedness of the plant as equipment and management control systems are turned over from contractors." (#78-11)

"We do wish to emphasize our concerns regarding station staffing and the status of the station, administrative, maintenance and procurement programs." (#78-20)

The NRR Safety Evaluation Report (SER) dated January 1979 states:

"We reviewed the qualification requirements for station personnel described in Section 13.1 of the Final Safety Analysis Report (FSAR) and find they meet those qualifications described in ANSI-N18.1-1971."

In summary, the SER shows the qualification requirements for station personnel meet the requirements described in the ANSI standards. However, RIII inspection reports have expressed continued concern regarding the adequacy of the Zimmer staff.

Attachments:

1. Statement by T. Harpster
2. Statement by J. Menning
3. Statement by J. Schott
4. Letter dated 5/18/79,
Borgmann to Keppler

STATEMENT

I, Terry L. Harpster, Reactor Inspector, USNRC, (SS# 209-32-3338), employed in the Office of Inspection and Enforcement, Region III, was contacted by Peter E. Baci, Investigator, USNRC on 5/21/79 at 1:30 p.m. at Region III Office in Glen Ellyn, Illinois. I was advised of the nature of the inquiry and make the following statement voluntarily.

I was assigned as the project inspector for the Zimmer Station in October 1977. I developed an increasing concern regarding the adequacy of the station staffing at Zimmer as documented in inspection reports during the months of March, August and November 1978 (50-358/78-06, 78-11 and 78-20). The immediate concern was the ability of the existing staff to adequately conduct the preoperational test and start-up programs. A second concern was the extensive use of contracted personnel for technical support. Much of the base-line knowledge and experience gained as a result of their participation in the start-up and test program would be lost with their departure 5/21/79. By this I mean that Zimmer station personnel will not gain the experience and training necessary for subsequent plant operations but that this experience and training will largely benefit only the contract personnel. The third concern was the adequacy of the corporate technical support. There was minimal involvement of the corporate technical staff in the preoperational test program. One specific area of concern was the lack of reactor instrumentation and control systems expertise. These concerns were discussed at various times with both the station management and CG&E corporate management (including James Schott, Station Superintendent, Steve Salay, Manager, Electric Production and Earl A. Borgmann, Vice President, Engineering Services and Electric Production).

A meeting was held on July 13, 1978 in Bethesda, Maryland to discuss weaknesses in the utility's organizational staffing. The meeting was attended by CG&E management, NRC Division of Project Management (NRR) and myself. Messrs Borgmann, Schott, Salay and Flynn (licensing manager) represented CG&E. Messrs, Don Skovholt (Assistant Director for Quality Assurance and Operations), Walt Haass (Chief, Quality Assurance Branch) and Irving Peltier (Licensing Project Manager) represented NRR. A subsequent meeting was held on September 21, 1978 at the CG&E corporate office in Cincinnati. Attending were Messrs, Salay and Schott representing CG&E and Messrs Harpster and Robert Warnick (Chief, Reactor Projects, Section 2, RIII) representing NRC. The lack of progress in augmenting the existing station staff was discussed with regard to its impact on the preoperational test program, operational preparedness of the station and the fuel load date. Specific concerns were the lack of a maintenance supervisor, a reactor engineer who met the requirements of ANSI 18.1, the size of the station technical support staff, and involvement of the corporate technical support staff in the pre-operational test program. In the period following these meetings and prior to the ACRS subcommittee meeting on February 27, 1979 an additional nuclear engineer was hired who met the ANSI 18.1 qualifications for reactor engineer. This man was placed on site to augment the existing nuclear engineer until the existing nuclear engineer meets the ANSI 18.1 qualifications. A mechanical engineering nuclear section was formed by CG&E in the corporate office to support site operations and the entire staff was moved onto the site. A quality assurance technician was contracted for to assist the station quality engineer. The station training supervisor resigned and was replaced by contracted

help from the General Physics Corporation. The station was still at this time without a maintenance supervisor.

As of the ACRS subcommittee meeting on 2/27/79 the scheduled fuel load date was June 1979. On 2/27/79 John Menning and I attended the ACRS subcommittee meeting to review the application of CG&E for a license to operate the Zimmer station. We were not participants in the meeting but attended as observers. In response to questions from ACRS members, James Schott (Station Superintendent) discussed the ability of the station to provide adequate backup support in the event of the loss of key personnel. Subcommittee Chairman Bender posed this question because of the apparent lack of depth in the organization. In response to Chairman Bender's question Mr. Schott stated that alternate members of the station technical staff were being designated to act as back up to key supervisory positions. In subsequent statements Mr. Schott stated that these people designated as backups would not have other jobs. In other words they would function as full time assistants to the supervisors they were backing up. These statements were contrary to my knowledge which was obtained through my inspections of the utility staffing and my conversations with both station and corporate management. Because I was not a participant, I did not object to this testimony at the meeting but I did, however, inform regional management of the substance of the testimony upon my return from the meeting. Also, at the adjournment of the meeting I informed the licensing project manager, Mr. Peltier; that I did not believe Mr. Schott's testimony reflected what actually existed with respect to Zimmer staffing capabilities. Upon my return to the region I discussed the testimony with my supervisor, Mr. Warnick, and I proposed that I go to Zimmer

and discuss the testimony with Mr. Schott. On March 5-6, 1979 John Menning and I went to the Zimmer site to discuss the testimony with Mr. Schott. John Menning, Jim Schott and I discussed station staffing and our respective interpretations of the ACRS testimony. Mr. Schott did not have available a transcript of the ACRS testimony so I suggested we call the regional office and have Mr. Warnick read the applicable portions of the transcript to Mr. Schott over the telephone. I informed Mr. Schott that it was my opinion that his testimony misled the ACRS subcommittee in that I was unaware that any formal contingency plan as described in the testimony was now being developed to provide backups to key supervisory personnel. It was also my opinion that adequate technical staff was not presently available to provide full time backups as described. I suggested to Mr. Schott that perhaps there was information regarding staffing available that John Menning and myself were not aware of as a result of our inspections and conversations with station management over the past year and a half. Mr. Schott indicated that he had not intended to give the impression that such a plan had been implemented nor that they had the personnel to provide full time backups for all key positions. On the morning of March 6, 1979, Mr. Warnick read the applicable portions of the transcript to Mr. Schott and myself over the telephone on a conference box. After hearing the transcript Mr. Schott indicated he could see how his testimony might be misleading. He also indicated that this was because he hadn't been prepared to address those questions in depth. Mr. Schott stated that he would discuss clarification of his testimony with his management prior to the full committee (ACRS) on March 9, 1979. At that point I was satisfied that the matter would be clarified at the full committee meeting. On March 9, 1979 John Menning and I attended the full

committee meeting, again as observers. The subject of staffing was again discussed in depth however CG&E offered no clarification of statements made at the subcommittee meeting. Upon my return from the full committee hearing I discussed the ACRS testimony with regional management and the decision was made to forward a statement of facts to IE Headquarters recommending that ACRS be made that I viewed the testimony as misleading. It is my concern that the Zimmer station staff, while meeting the minimum requirements of ANSI 18.1, does not have the ability to provide adequate backup for losses of key supervisory personnel and that for a staff which has minimal prior nuclear experience this should carefully be considered when recommending the issuance of an operating license. Since the ACRS recommendation is part of the licensing and hearing process, I feel strongly that ACRS is entitled to complete and accurate information both from the licensee and the NRC staff.

On May 18, 1979 I was requested by my Branch Chief Mr. Heishman to contact the Zimmer licensing project manager (Irv Peltier) in response to questions regarding the May 2, 1979 letter from Dudley Thompson to James Keppler addressing the ACRS testimony. The specific concern was that neither John Stolz (Irv Peltier's supervisor) nor Peltier recall being informed of my concern that the testimony relevant to staffing at the ACRS subcommittee was questionable. On May 18 I discussed the events with Peltier over the telephone. In the course of our conversation Mr. Peltier did not recall my having addressed my concerns to him after the subcommittee meeting on February 27. Mr. Peltier stated that he had discussed my concerns regarding the testimony with CG&E and that they (CG&E) were satisfied with their

testimony. Mr. Peltier also indicated that he had discussed the memo-
orandum with ACRS staff members and indicated that they didn't fully
understand my concerns. Mr. Peltier did indicate that ACRS recognizes that
a certain amount of testimony which is presented by applicants is B.S.
Peltier indicated that someone had talked to Barth (Charles Barth, ELD)
and convinced Barth it was inappropriate for ASLB (meaning, this material
was not that significant), and that Barth had contacted Yore (J. R. Yore,
Chairman, ASLB) and asked Yore to throw it away (meaning the Thompson memo
of 5/2/79).

I, Terry L. Harpster, have read the above statement, consisting of 14
handwritten pages and it is true and correct to the best of my knowledge.
I have initialled all changes, additions or corrections. Furthermore, I
am aware that this statement may be in a judicial proceeding.

TS/
Reactor Inspector

5/22/79
Date

TS/
Investigator

5/22/79
Date

I, John E. Menning, Reactor Inspector, USNRC, (SS# 297-38-0310), employed in the Office of Inspection and Enforcement, Region III, was contacted by Peter E. Baci, Investigator, USNRC on 5/21/79 at 5:00 p.m. at the Region III Office in Glen Ellyn, Illinois. I was advised of the nature of the inquiry and made the following voluntary statement. My first association with the Zimmer staff was October 24 to 27, 1978 during which I initiated the inspection of emergency maintenance and operating procedures. This inspection effort was continued on February 13 to 15, 1979. During these inspection visits I had contact with the principal staff in the operations, maintenance and instrument control groups as well as with the Plant Superintendent, Jim Schott and his assistant Paul King. I observed during those inspections that there was no assigned maintenance supervisor and that the assistant plant superintendent was attempting to perform the duties of that position. I also noticed that although the operations supervisor had a shift foreman assisting him, no one was formally designated as his assistant. On Tuesday, February 27, 1979, I attended an ACRS subcommittee session, chaired by Mr. Bender, during which matters related to Zimmer Plant licensing were discussed. I attended this session as an observer. During the course of testimony given by Mr. Schott I noted that statements relative to backup provisions for key positions were not consistent with the staffing of the plant as observed during my previous inspection visits. More specifically, I was not aware that alternates had been designated for the key staff positions or that any plans had been made to give the alternates that the same training as the individuals who are being backed up or that finally, any individuals were functioning on a full-time basis as back-ups to key staff positions.

During a subsequent inspection at Zimmer with T. Harpster on March 5, and 6, 1979, Mr. Schott was questioned about our understanding of his testimony before the ACRS subcommittee relative to capabilities for backup of key staff positions. During the course of these discussions, he indicated that it was not his intent to give the ACRS subcommittee the impression that the plant had established or was establishing a formal-structured program for the development and training of full-time backups for key personnel. He indicated that he only intended to communicate to the ACRS subcommittee that individuals existed on his staff who could function as backups to key personnel. At this point Mr. Schott had not seen the transcript of the proceedings. At this time Mr. Schott said that if the transcript indeed reflected our understanding of the testimony (mine and Terry Harpster's), then a clarification of the record might be in order. At this point in the discussion, Terry Harpster offered to have R. F. Warnick (Chief, Reactor Projects Section, R, III) call up Mr. Schott and read the pertinent portions of the testimony to him. In talking with T. Harpster, it is my understanding that this was subsequently done. At the full ACRS committee meeting on March 9, 1979, although the capabilities of the plant staff were discussed, the utility representatives did not clarify statements made to the subcommittee relative to backup capabilities for key staff positions.

I, John E. Menning, have read the above statement, consisting of five handwritten pages and it is true and correct to the best of my knowledge. Furthermore, I am aware that this statement may be used in a judicial proceeding. I have initiated corrections and made any changes I desire.

 /s/
Witness: Peter E. Baci

 /s/
5/21/79
5/21/79

I, James R. Schott, Station Superintendent, CG&E Zimmer Station, P.O. Box 960, Cincinnati, Ohio, 45201, was contacted on 5/24/79 by Peter E. Baci, Investigator, USNRC and Tom Vandell, Project Inspector, USNRC at 0815 at the Zimmer Station site. I was advised of the nature of this inquiry and made the following voluntary statement _____

Following the ACRS Subcommittee Meeting held on Tuesday, February 27, 1979, I reviewed a copy of the Subcommittee transcript, specifically pages 120 thru 123, concerning station staffing. This review resulted because Mr. Harpster, Region III Inspector, indicated that my testimony was misleading in regard to our staffing plans, especially as the plans related to providing adequate backup personnel for key supervisory positions.

I reviewed and discussed this testimony with senior members of CG&E management and we concluded the statements were correct. I further indicated to Mr. Harpster on separate occasions that due to the apparent problems, I would clarify the issue at the full ACRS meeting.

During the full ACRS committee meeting held on March 9, 1979, I presented a staffing chart and briefly reviewed it with the aid of an overhead projector. Copies of the chart were also provided for each committee member. I felt this presentation satisfied all concerns. *ys*

I became aware that confusion and misunderstanding still existed early last week (May 15, 1979, or thereabouts) regarding the meaning of several of my statements. I was informed that an interview and statement may be required to close this matter out to the satisfaction of all concerned. I was concerned and rather appalled at this approach, but we agree that all misunderstandings should be adequately addressed.

Mr. Borgmann's letter of May 18, 1979, to Mr. Keppler, Director of Region III, in my opinion, clarified the situation, but Mr. Baci, the I&E Investigator, indicated the subject letter added confusion to what CG&E actually meant.

The following specific plans and intentions in the areas of operation, maintenance, I&C, rad-chem, technical and training should explain our position.

1. Operations - To provide a dedicated backup to the operations engineer, we intend to designate one of our senior shift supervisors as a daytime "assistant". This individual will not have concurrent shift or watch responsibilities, but will aide, assist, or perform other jobs as assigned by the Operations Engineer. This man will function as the principal in his absence.
2. Maintenance - A dedicated individual titled Maintenance Staff Engineer, has been assigned full time to the Maintenance Engineer. In this area of responsibility, the principal assigns work activities such as engineering, advice, review, and assistance. The Maintenance Staff

2. Maintenance (cont'd.) - Engineer assumes the duties of the Maintenance Engineer in his absence and thus is the "dedicated backup".
3. I&C - Similar to maintenance, except the position has not been filled.
4. Rad-Chem - Similar to maintenance except two engineering specialists have been assigned to the principal. These individuals will receive experience and cross-training in the involved disciplines. At this time, the senior individual would function as the dedicated backup.
5. Technical - The technical staff is being expanded and present capability exists within this group to adequately back up the Technical Engineer.
6. Training - A training Supervisor has been appointed. This man is the dedicated backup to the Training Coordinator.

It is not my intent to indicate in writing, or include in individual job descriptions, that the above named individuals are "designated backups".

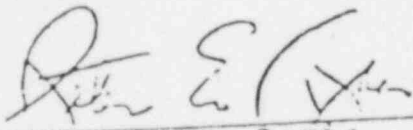
I, James R. Schott, have read the above statement consisting of 2 ~~96~~ typewritten pages. It is true and correct to the best of my knowledge. I have initialled any corrections or changes. Furthermore, I am aware that this statement may be used in a judicial proceeding.



 James R. Schott

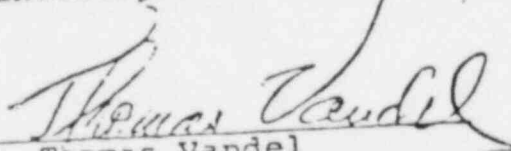
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Witnesses



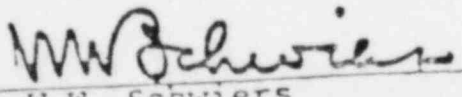
 Peter E. Baci
 Investigator, USNRC

5/24/79
 Date



 Thomas Vandell
 Project Inspector, USNRC

5-24-79
 Date



 W.W. Schwiers
 Principal Quality Assurance
 Standards Engineer

5-24-79
 Date

THE CINCINNATI GAS & ELECTRIC COMPANY



May 18, 1979

E. A. BORGMANN
VICE PRESIDENT - ENGINEERING

James G. Keppler
Director
United States Nuclear Regulatory Commission
Region III
799 Roosevelt Road
Glen Ellyn, Illinois 60137

Dear Mr. Keppler:

I am writing you concerning our telephone conversation of May 14 during which you indicated that Region III wished to interview some of our people further with regard to certain statements made to the Advisory Committee on Reactor Safeguards (ACRS). These statements apparently concerned our staffing plan and some conflict between the statements made and our actual staffing intentions. Obviously, I was quite concerned and looked into the matter promptly. The facts in this matter from our standpoint are as follows:

Following the subcommittee meeting, Mr. Harpster, your inspector, along with his supervisor, Mr. Warnick, telephoned Mr. James R. Schott, our plant superintendent, and voiced his feelings to the effect that CG&E's plans with respect to backup personnel should be clarified at the full ACRS meeting. Mr. Schott advised Mr. Harpster that he had not seen the transcript but indicated that he had not tried to mislead anyone with his testimony.

After Mr. Harpster's call to Mr. Schott, we reviewed the transcript of the ACRS subcommittee meeting of February 27 and concluded that we agreed with Mr. Schott's testimony concerning backup capability. Apparently any problem stems from the discussion of backup to operating personnel between Subcommittee Chairman Bender and Mr. Schott. In essence, Mr. Bender was trying to assure himself that adequate backup would exist for each key supervisor. The maintenance supervisor was used as the example in the discussion which was prompted in part by the fact that our former maintenance supervisor had resigned.

What Mr. Schott stated was that backup capability would be assured at the second line supervisory level and would be full time. Our intention is to have a dedicated backup for each of the following sections: operating, maintenance, I & C, rad-chem, technical, and training. It was not our intention, however, to

Y 21 1979

Attachment 4

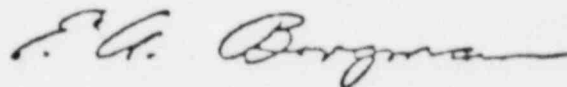
May 18, 1979

necessarily give these backup personnel the title of "Assistant" per se.

Both CG&E and Mr. Schott personally believe that our intentions were clarified at the full committee meeting by describing the roles of the maintenance engineer and the other supervisors, including their support. This was done through the use of a view graph and Xerox copies of the plant organization chart which were distributed to members of the committee. It was not until your call that anyone at CG&E had knowledge that this matter had not been fully resolved to Mr. Barpster's satisfaction.

I hope this letter now resolves this matter to the satisfaction of Region III. However, in the event you wish to discuss the subject further with our personnel, we will be pleased to cooperate. As you know, the pre-hearing conferences are scheduled for May 21-23 with the evidentiary hearing scheduled to begin on June 19. For this reason, timely resolution of this apparent misunderstanding is essential.

Very truly yours,



E. A. Borgmann
Senior Vice-President

REPORT OF INTERVIEW

On March 13, 1980, Ronald M. Smith, Investigator, Office of Inspector and Auditor (OIA), interviewed Irving A. Peltier, Office of Nuclear Reactor Regulation (NRR), licensing project manager for Zimmer. Peltier was advised that a concern regarding his having improperly contacted Charles Barth, Attorney, ELD, had been resolved leaving the question of whether he had improperly contacted CG&E management regarding the subject of an IE investigation which was addressing possible misrepresentation by CG&E to the ASLBP. Peltier indicated the matter of CG&E staffing at Zimmer had been a continuous concern since a meeting held with CG&E in July 1978. Therefore, Mr. Harpster's statement that Mr. Peltier had discussed the matter with CG&E was correct. He emphasized that NRR was concerned with the "issue" of staffing regardless of any IE investigation. Mr. Peltier was sure that he never showed the May 2, 1979, memorandum to CG&E. Peltier was not sure whether he was even aware of the memorandum on May 17, 1979, when he discussed staffing with CG&E. He noted that his copy was date stamped received by NRR (Mr. Denton) on May 8, 1979. Peltier advised he did not know how long it took for the memorandum to "filter down" to him. He could not recall whether he even discussed the IE investigation, while it was in process, with CG&E; but as indicated above, he did continue to discuss the issue of staffing with CG&E. Peltier advised that he could not remember talking to Barth (1) about the May 2, 1979 memorandum or (2) about Barth contacting Yore and asking Yore to throw away the memorandum. Peltier added that he could not remember telling Harpster that someone had talked to Barth and convinced him (Barth) to contact Yore and have Yore throw away the memorandum.

Mr. Peltier further noted that the IE investigation did not substantiate that CG&E had committed any violation. He provided the writer with a copy of that July 31, 1979, investigative report. Peltier also remarked that he never understood the interest of Mr. Harpster in the matter because the issue of backup staffing was a concern of NRR. He observed that CG&E met the "minimum" NRR requirements without additional staffing.

Finally, Mr. Peltier noted that the May 2 memorandum was not marked "Official Use Only," did not contain within its context any reference to confidentiality, and had received rather wide dissemination. Peltier wondered how he would have known not to have had contact with CG&E management concerning the issue of staffing without some kind of notice.

ATTACHMENT F

REPORT OF INTERVIEW

On March 12, 1980, Ronald M. Smith, Investigator, Office of Inspector and Auditor (OIA), interviewed Charles Barth, Attorney, ELD, telephonically. He was advised that the inquiry was intended to determine whether he had contacted Mr. James R. Yore, Chairman of the ASLBP concerning the May 2 Thompson memorandum and whether he had attempted to influence Yore to destroy the memorandum. Barth advised that he had not contacted Mr. Yore about the memorandum, but rather had been contacted by Yore. Yore asked the significance of the Thompson memorandum. Barth's response was "nothing new, its under investigation, we will let you know if anything of significance develops." Barth did advise Yore to destroy the memorandum. According to Barth, the reason for this advise to Yore was his (Barth's) feeling that no one beyond the few with a need to know should be aware of or have in their possession documentation concerning the fact of the investigation until it was completed. Barth advised that this was the only conversation he had with Mr. Yore regarding this matter.

When asked whether Mr. Peltier, or anyone else, contacted him in order to persuade him to get the memorandum "killed", Barth replied in the negative.

ATTACHMENT G

REPORT OF INTERVIEW

On March 18, 1980, Ronald M. Smith, Investigator, Office of Inspector and Auditor (OIA) interviewed Thomas E. Vandel, Project Inspector, Region III, in Vandel's office. Mr. Vandel was advised of the nature of the inquiry. When asked whether he had shown the April 10, 1979, memorandum (Attachment B) to Schott (Superintendent of the Zimmer Plant), Vandel replied in the affirmative. Vandel advised the memorandum had come to him in the normal course of business with no direction that it not be shown to the licensee. In fact, Charles Norelius, Special Assistant to the Regional Director, had told him to notify the licensee that an investigator would be visiting concerning the issue of the licensee's testimony. Vandel chose showing the memorandum to the licensee as the mode of carrying out Mr. Norelius' direction. He further stated that there was no intent on his part to give any advantage to the licensee. Vandel continued by stating his experience had proven to him that good rapport and candidness with a licensee was necessary to insure openness on their part, thereby enhancing the objective of the inspection program - safety. Vandel emphasized that this rapport and openness in no way affected his ability and willingness to cite the licensee for failure to comply with NRC regulations and requirements.

ATTACHMENT H

REPORT OF INTERVIEW

On March 20, 1980, Ronald M. Smith, Investigator, Office of Inspector and Auditor (OIA) interviewed Charles Norelius, Special Assistant to the Director, Region III. Norelius advised that as a matter of "logistics" he alone told Vandell to advise appropriate CG&E people that Mr. Baci (IE investigator) would be coming. The intent was to insure that the appropriate CG&E personnel would be present for interview. Norelius stated he did not tell Vandell to tell CG&E the nature of the investigation nor did he tell him not to. Through a subsequent telephonic contact by Lawrence J. Strickler, Investigator, Office of Inspector and Auditor, Charles Norelius indicated that if he had known that Vandell was going to show the memorandum to Schott of CG&E, he would have told him not to do so.

ATTACHMENT I