

November 8, 1982



SECY-82-449

ADJUDICATORY ISSUE
(Affirmation)

For: The Commissioners

From: Martin G. Malsch, Deputy General Counsel

Subject: MVPP'S PETITION TO COMMISSION TO DISQUALIFY
STAFF ATTORNEY FROM ZIMMER PROCEEDING

Purpose: 5/ To recommend

Discussion: On July 30, 1982 Intervenor Miami Valley Power Project (MVPP) petitioned the Commission directly to "disqualify" OELD attorney Charles Barth from the Zimmer licensing proceeding. Various answers and replies were then filed by the parties, the last of which was filed on September 4, 1982. Both NRC Staff and the applicants opposed the MVPP motion.

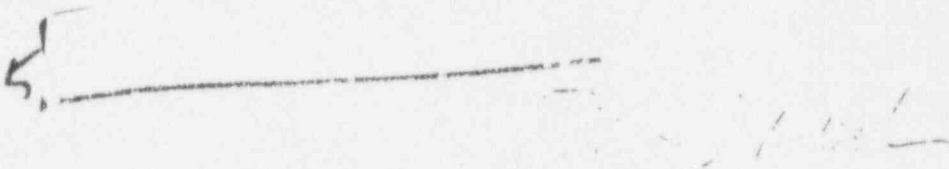
At the threshold the Commission must decide whether it should refer the petition to a licensing board or whether it is a subject appropriate for consideration by the Executive Director for Operations (EDO) or both. The petition alleges actions on Mr. Barth's part to conceal important information from the Licensing Board. Such an allegation would be within the jurisdiction of the Licensing Board, and might also be a matter for consideration by Mr. Barth's supervisors. The petition also alleges that Mr. Barth was unwilling to represent the Staff's position.

Contact:
Marjorie S. Nordlinger, OGC, 41493

1101
9403080161 930525
PDR FOIA
GILINSK92-436 PDR

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 5
FOIA 92-436

5/38

Recommendation: 

Martin G. Malsch
Deputy General Counsel

Attachment: Draft Order

Commissioners' comments should be provided directly to the Office of the Secretary by c.o.b. Monday, November 22, 1982.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT Monday, November 15, 1982, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

This paper is tentatively scheduled for affirmation at an Open Meeting during the Week of November 22, 1982. Please refer to the appropriate Weekly Commission Schedule, when published, for a specific date and time.

DISTRIBUTION:
Commissioners
OGC
OPE
SECY