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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Nuclear Regulatory Commission

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)	
)	
The Cincinnati Gas & Electric)	Docket No. 50-358
Company, <u>et al.</u>)	Construction Permit
)	No. CPPR-88
(Wm. H. Zimmer Nuclear Power)	
Station))	

APPLICANTS' ANSWER TO SHOW CAUSE ORDER
AND ORDER IMMEDIATELY SUSPENDING CONSTRUCTION

On November 12, 1982, the Nuclear Regulatory Commission ("NRC" or "Commission") issued "An Order To Show Cause And Order Immediately Suspending Construction" ("Order To Show Cause") in the captioned proceeding. The Order to Show Cause reviewed matters relating to the construction of the Wm. H. Zimmer Nuclear Power Station ("Zimmer Station") which formed the basis for the NRC's action.

In addition to immediately halting safety-related construction activities, including rework of identified deficient construction, Section IV of the Order To Show Cause required that a number of specific steps be taken prior to authorization by the Regional Administrator for resumption of the halted work. These included an independent review of the management of the Zimmer project, the submittal of an updated comprehensive plan to verify the

quality of construction and the submission of a comprehensive plan for the continuation of construction.

Section V of the Order to Show Cause described the alternatives for responding to the Commission's action. By this answer, Applicants state that, as provided for in 10 C.F.R. §2.202(d), they are consenting to the requirements proposed in Section IV of the Order To Show Cause, recognizing that, upon such consent, the terms of Section IV.B become effective. Thus, Applicants specifically state that they are not requesting a hearing on the Order to Show Cause. Applicants have already taken the first step towards compliance with the requirements of Section IV.B of the Order To Show Cause. On November 26, 1982, Applicants submitted documentation to the Regional Administrator in support of their selection of Bechtel Power Corporation to act as the independent reviewer of the management of the project.

While Applicants are now firmly committed to carry out the requirements of the Commission's November 12, 1982 Order and to take all other steps necessary to complete the construction of the Zimmer Station in a quality manner, nothing herein should be taken as an admission that any of the factual assertions or conclusions in the Order to Show Cause is true. Thus, Applicants do not agree that there has been a "widespread breakdown in CG&E's management of the Zimmer project . . ." (page 1) or that "CG&E paid a civil penalty of \$200,000 for the failure to implement an

acceptable quality assurance program . . ." (page 2). Applicants also note their concurrence with the dissenting views of Commissioner Roberts, whose analysis of the situation parallels to a significant extent their own. Thus, actions which the Company had already taken to improve the quality assurance program prior to issuance of the Order to Show Cause and matters which have been brought to light by the implementation of these efforts are seemingly cited by the Commission as a basis for its action, thereby penalizing the Applicants, in effect, for such corrective actions. The mere determination that deficiencies have been identified by the Applicants during the conduct of their Quality Confirmation Program and other quality reviews and reported to the NRC pursuant to 10 C.F.R. §50.55(e) were therefore inappropriately used to support the NRC's action.

Whether earlier implementation of a better quality assurance program would have obviated the need for reporting such deficiencies is truly irrelevant. The fact that such deficiencies are being reported shows the willingness of the Company to comply with NRC regulations and to publicly identify their findings. Such identified deficiencies will be corrected through the mechanisms provided by the quality assurance program and, of course, their resolution will be reported to the NRC.

It should also be noted that a number of the listed items on pages 4 through 6 of the Order To Show Cause were not reported pursuant to 10 C.F.R. §50.55(e), but, in an

abundance of caution, were identified to the NRC as potentially reportable. Certain of these turned out to not be reportable under that Commission regulation. Of the 21 items on those pages, 5 have been found to be "reportable," 2 were ultimately determined to be "non-reportable" by the Applicants, and 14 are still presently categorized as only "potentially reportable."

Similarly, the fact that the confirmation program reviews have identified 4200 non-conformances shows that quality programs are working, not that there is any continuing breakdown in the quality assurance program. Again, many of the remaining matters discussed in Section III have been identified by the Applicants and, in all cases, the Applicants are working towards a solution acceptable to the NRC.

Furthermore, even if such matters warrant an order to show cause, there is little therein to support an immediate halt in construction. There is absolutely no hazard to public health and safety from continued construction of the plant, particularly given the demonstrated effectiveness of the Quality Control Program and Quality Assurance Program. Applicants believe that this action in stopping construction without any showing of an immediate threat to the public health and safety has set an unfortunate precedent which has the potential for causing unintended results in many areas within the Commission's field of regulation.

Nevertheless, inasmuch as the NRC's action of immediately halting construction is such as to not leave Applicants an adequate alternative and Applicants desire to move forward towards completion of the Station, Applicants have consented to the action required by Section IV.B. As pointed out by Commissioner Roberts, a request for a hearing by the Applicants is really not viable in terms of schedule or expense. Applicants would expect that their assent to this Order will permit them to concentrate on completion of the Station and would not at some time in the future be cited as justification for reconvening an evidentiary proceeding on this matter.

Conclusion

Applicants consent to the provisions proposed in Section IV of the Order To Show Cause.

Respectfully submitted,

CONNER & WETTERHAHN, P.C.

Mark J. Wetterhahn / RWK

Mark J. Wetterhahn
Counsel for Applicants

December 7, 1982

UNITED STATES OF AMERICA
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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Answer to Show Cause Order and Order Immediately Suspending Construction," dated December 7, 1982, in the captioned matter, have been served upon the following by deposit in the United States mail this 7th day of December, 1982:

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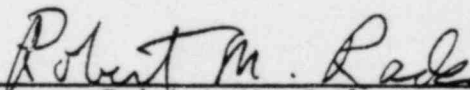
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