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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION 82 DEC 16 12:09

Before the Commission

OFFICE OF SECRETARY
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BRANCH

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

APPLICANTS' ANSWER TO MIAMI VALLEY POWER PROJECT'S
"PETITION TO ESTABLISH A DETAILED STRUCTURE FOR
PUBLIC PARTICIPATION THROUGH THE AUDIT"

On November 30, 1982, the Miami Valley Power Project ("MVPP"), an intervenor in this proceeding, filed a document entitled "Miami Valley Power Project's Response in Support of Zimmer Area Citizens - Zimmer Area Citizens of Kentucky and the City of Mentor Petition for Appointment of a Consultant to Monitor the Third Party Audit and Petition to Establish a Detailed Structure for Public Participation Throughout the Audit." As part of its response to a petition filed by the Zimmer Area Citizens/Zimmer Area Citizens of Kentucky ("ZAC/ZACK") dated November 19, 1982, MVPP petitions the Commission "to adopt the monitoring structure described in [its] brief in order to insure meaningful public participation in the selection of all

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outside organizations implementing the Commission's Order."^{1/}

While asking for slightly more specific actions, the basic premise of the MVPP petition is the same as the original ZAC/ZACK petition, i.e., the Applicants cannot be trusted and the Commission's Staff is incapable of performing its role without rigid guidelines and scrutiny by the intervenors. Thus, the reasons for denying the additional relief requested by MVPP are already fully set forth in "Applicants' Answer to Zimmer Area Citizens/Zimmer Area Citizens of Kentucky 'Petition for the Appointment of a Consulting Firm Nominated by Intervenors to Review and Monitor the Third Party Audit" dated December 6, 1982 ("Applicants' Answer") which, for the sake of brevity, is incorporated herein by reference. Only a few additional points need be made.

MVPP proposes a detailed and complicated structure for participation by intervenor and other groups in the selection of the independent organization conducting the review of the management of the Zimmer project as required by the Commission's Order to Show Cause and Order Immediately Suspending Construction dated November 12, 1982 ("Order to Show Cause"). MVPP has not demonstrated that

^{1/} Applicants will only respond to the new matters raised by petition and will not comment upon this pleading to the extent that it purports to respond to the ZAC/ZACK petition. 10 C.F.R. §2.373(c).

such process is necessary to carry out the goals of the Commission as set forth in its Order to Show Cause or that the procedure which has been initiated by the Regional Administrator to whom the Commission has looked for implementation of its Order to Show Cause is in any way ineffective.^{2/} The broad implication that the Staff is incapable of performing its function under the Order to Show Cause unless the process is institutionalized and oversight responsibility given to intervenors should be rejected by the Commission.

Aside from repetition of its litany of charges regarding a breakdown in the quality assurance at the Zimmer Station, the petition gives no good reason why the present procedure is not effective and must be supplemented in this case.^{3/} Furthermore, all the procedure suggested

^{2/} See Applicants' Answer at 7-8.

^{3/} MVPP continues to make unsubstantiated charges such that the "selection process is tainted" (MVPP Petition at 2) and there exists "CG&E's comprehensive violation of the public trust." *Id.* at 4. MVPP also continues to imply that because there is an ongoing Grand Jury investigation of the Zimmer project, CG&E management has already been found guilty of "intentional wrongdoing." MVPP Brief at 4, n.3. Such allegations are counterproductive in that they tend to diminish public confidence in the actions of the Commission. Certainly an intervenor organization making these accusations should not be permitted to dictate to the Commission or Staff the courses of action which should be taken in this matter.

by MVPP does do is to lead to additional delays and complications which will undoubtedly lead to delay in the resumption of the work halted by the Commission's Order to Show Cause.

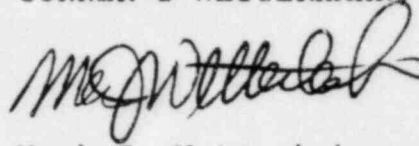
As explained in Applicants' Answer to ZAC/ZACK, the organization conducting the independent review under the Order to Show Cause is not performing the same function as an independent auditor as was utilized in the Diablo Canyon proceeding.^{4/} The principal purpose of Section IV.B of the Order to Show Cause is to assist the Company in strengthening the management of the Zimmer project. Therefore, there are significant reasons why the Applicants should have a greater say in the selection process than with a third party auditor inasmuch as such organization, once selected, will become their agent to implement the comprehensive plan for the continuation of construction. Applicants are required to evaluate these recommendations and, with the approval of the Regional Administrator, choose a particular alternative. This is a far cry from the functions of an independent auditor as utilized at Diablo Canyon.

^{4/} Applicants' Answer at 1-2, n.1.

For these reasons, the additional relief requested by
MVPP should be denied.

Respectfully submitted,

CONNER & WETTERHAHN, P.C.

A handwritten signature in dark ink, appearing to read "Mark J. Wetterhahn", written in a cursive style.

Mark J. Wetterhahn
Counsel for the Applicants

December 16, 1982

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Answer to Miami Valley Power Project's 'Petition to Establish a Detailed Structure for Public Participation Through the Audit,'" dated December 16, 1982 in the captioned matter, have been served upon the following by deposit in the United States mail this 16th day of December, 1982:

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