

COMMUNICATIONS BETWEEN AND AMONG CG&E, INDEPENDENT MANAGEMENT

(Bechtel),
REVIEWER AND ~~THIRD PARTY~~ OVERVIEWER

^ → Independent

In order to ensure the "arms length" relationship between CG&E (including its contractors and subcontractors), ^{management} and the independent reviewer, ^(Bechtel) and the ~~third party~~ ^{independent} overviewer, while at the same time not unduly restricting the ability of all to complete their efforts, the following protocol shall be adhered to:

1. Consistent with the Commission's November 12, 1982 Order, recommendations, findings, evaluations and all exchanges of correspondence, including drafts, between the independent ^{management} reviewer and CG&E will be submitted to the Regional Administrator at the same time as they are submitted to the licensee. Since the Regional

Administrator has additionally required CG&E to propose an ^{independent} ~~third party~~ consultant to conduct an overview of the ~~independent~~ ^{management} ~~management~~ consultant's review conclusions, and recommendations concerning the management of the Zimmer project, ^{independent} ~~third party~~ ~~overviewer~~ organization. ^{management} ~~consultant~~ ~~reviewer's~~ ~~and~~ ~~CG&E's~~ ~~review~~ ~~conclusions~~, ~~and~~ ~~recommendations~~ concerning the management of the Zimmer project,

2. The independent management reviewer and the ^{independent} ~~third party~~ ~~overviewer~~ ^{overviewer} organization have a clear need for prompt access to whatever information they require to fulfill their role^S as described in the Commission's November 12, 1982 Order and in the cover letter to this protocol. To this end, the independent reviewer and ~~third party~~ overviewer may request documentary material, meet with and interview individuals, conduct telephone conversations, or

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1/19/83 [Signature]

visit the site to obtain information without prior notification ~~to~~ of the NRC. All communications and transmittals of information shall, however, be documented and such documentation shall be maintained in a location accessible for NRC examination. To the extent that any individual contacted or interviewed requests that his or her name not be revealed, that information need not be included in the documentation but shall, if requested, be made available to appropriate NRC personnel.

3. If the independent reviewer or ~~third party~~ overviewer wishes to discuss ^{with CG&E} substantive matters related to information obtained, ~~or~~ to provide an interim report to CG&E, or to discuss its findings or conclusions with CG&E in advance of completing its report, or if CG&E desires such communication, ^{such discussions} it shall be in ^{meetings} open to public observation. In this regard, CG&E shall provide ^{> accomplished} a minimum of five days advance notice to the Regional Administrator ^{of any such meeting.} The Regional Administrator shall make reasonable efforts to notify representatives of interested members of the public of the meeting, but the inability of any person to attend shall not be cause for delay or postponement of the meeting. Transcripts or written minutes of all such meetings should be prepared by ^{CG&E} ~~the independent reviewer or third party overviewer~~ and provided to the NRC in a timely manner. ~~Communications solely with respect to the financial~~
^{Any portion of such meetings which}

deals with proprietary information, may be closed to the public.

- 3 -

~~and administrative aspects of any contract entered into with an independent reviewer or third party overviewer may be conducted without opportunity for public observation~~

Nothing in this Protocol shall affect the ~~right~~ right of

4. The NRC staff ~~will~~ have direct contact with the independent management reviewer or overviewer, as necessary, ^{to} ~~without the attendance of any other person~~

or transmitted by,

5. All documents submitted to the NRC subject to this Protocol will be placed in the NRC Public Document Rooms (PDR) in Batavia, Ohio, and Washington, D.C., and will be available there for public examination and copying.

Except where ~~where~~ the staff determines that such direct contacts are necessary, all meetings between the staff and CG&E, the independent reviewer, and/or the independent overviewer will be open to public observation.

Marked-up. 2/1/83.

Docket No. 50-358

Cincinnati Gas and Electric
Company
ATTN: Mr. W. H. Dickhoner
President
139 East 4th Street
Cincinnati, OH 45201

Dear Mr. Dickhoner:

By letter dated November 26, 1982, you proposed that Bechtel Power Corporation (Bechtel) be retained as the independent organization to conduct the review of CG&E's management of the Zimmer project required by Section IV.B(1)(a) of the Commission's November 12, 1982 Order. Supplemental information in support of this request was provided with your letter^s of January 3, ~~1983~~^{10, and 31, 1983.}, in response ~~to questions contained in my letter of December 28, 1982.~~

We find the selection of Bechtel for this assignment to be consistent with the independence criteria outlined in the Commission's letter of February 1, 1982 to Congressmen Ottinger and Dingell. We believe Bechtel can be of considerable help to CG&E and the Zimmer project based upon their proven success in assisting other utilities with their projects (e.g., South Texas; WNP-2; Diablo Canyon). However, since it appears that you may also propose to retain Bechtel in a substantive role in the completion of the project, you should understand that we would only consider Bechtel eligible for such a role provided that you retain an additional independent organization, acceptable to the NRC staff, to conduct an overview of Bechtel's and CG&E's review, conclusions, and recommendations concerning the management of the Zimmer project pursuant to Section IV.B.(1) of the Order. Enclosure 1 provides our rationale for this

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decision. Note that this requirement for an additional independent organization to conduct such an overview would not replace the requirement to include an outside audit organization, which did not perform the activities being audited, in the comprehensive quality verification plan required under Section IV.B.(2) of the Order.

The independent overview organization should be a recognized management consultant and must satisfy the independence standards contained in the Ottinger/Dingell letter. This overview is intended to assure that the management review findings and recommendations ^{are} ~~is~~ not compromised by the proposed future relationship between CG&E and Bechtel. Upon completing its effort, the independent overview organization shall provide CG&E and the NRC simultaneously with a written report documenting its actions and conclusions.

We look forward to your proposal of an organization to conduct the independent overview of the management review and recommendations. We intend to act as expeditiously as possible on that proposal. Since the public's extensive comments offered on your proposal for approval of Bechtel have been considered in our decision, ~~further opportunity for public comment is not envisioned.~~ ^{we do not envision that it will be necessarily}

^{to await further public comment before reaching our decision.}

While we have approved CG&E's proposal to use Bechtel to perform the review under Section IV.B(1)(a) of the Order subject to the retention of an acceptable management consultant, certain details pertaining to Bechtel's plans for conducting the management review of CG&E need amplification. To expedite resolution of these matters, we would like to meet with you and Bechtel as early as

Cincinnati Gas and Electric
Company

- 3 -

possible. We propose to hold the meeting in Cincinnati, and make it open to public observation. I will contact you shortly regarding arrangements for the meeting.

I am also enclosing a copy of the protocol which NRC expects to be followed during the management review under Section IV.B(1) of the Order as to contacts the independent management reviewer between or among CG&E, (Bechtel), and the ~~additional third party~~ selected to do the independent overview (Enclosure 2).

The approval granted by this letter is limited to Section IV.B(1)(a) of the Order.

Sincerely,

James G. Keppler
Regional Administrator

Enclosures: As stated

cc: See page 4

Cincinnati Gas and Electric
Company

- 4 -

cc w/enclosures:
Mr. Earl A. Borgmann
Senior Vice President
J. R. Schott, Plant
Superintendent
J. D. Flynn, Manager
Licensing Environmental
Affairs Department
DMB/Document Control Desk (RIDS)
Resident Inspector, RIII
Harold W. Kohn, Power
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Citizens Against a Radioactive
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Helen W. Evans, State of Ohio
Robert M. Quillin, Ohio
Department of Health
Thomas Applegate
Thomas Devine, Associate
Director, Institute for
Policy Studies
Dave Martin, Office of
Attorney General
Mark Wetterhahn, Esq.
Jerome A. Vennemann, Esq.
Gretchen Hummel, Ohio
Consumers' Counsel
James R. Williams, State
Liaison Officer, Ohio
Disaster Services Agency

To be supplemented
by RIII's list of
all commenters for
whom we have addresses

COMMUNICATIONS BETWEEN AND AMONG CG&E, INDEPENDENT MANAGEMENT

(Bechtel),
REVIEWER AND THIRD PARTY OVERVIEWER

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Administrator has additionally required CG&E to propose a ^{independent} ~~third~~ management consultant to conduct an overview of the ~~indep~~ management organization. ^{independent} ~~party overviewer~~, the above requirements will also apply to that ~~management consultant~~ ^{independent} ~~reviewer's~~ and ~~CG&E's~~ review conclusions, and recommendations concerning the management of the Zimmer project,

2. The independent management reviewer and the ^{independent} ~~third party overview~~ ^{Overviewer} ~~organization~~ have a clear need for prompt access to whatever information they require to fulfill their role ^S ~~as~~ as described in the Commission's November 12, 1982 Order and in the cover letter to this protocol. To this end, the independent reviewer and ~~third~~ ~~party~~ overviewer may request documentary material, meet with and interview individuals, conduct telephone conversations, or

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John C

Staff Evaluation of Cincinnati Gas & Electric Co.
Proposal to Conduct the Review of the Management
of the Zimmer Project in Accordance with Section
IV.B(1)(a) of the Commission's November 12, 1982 Order

I. Purpose

The purpose of this document is to provide an evaluation of the Cincinnati Gas and Electric Company (CG&E) response to Section IV.B(1)(a) of the Commission's November 12, 1982 Order. The Order requires an independent review of the management of the Zimmer Project, including management of the quality assurance and quality verification programs. Specifically:

"Accordingly, pursuant to sections 103, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, IT IS HEREBY ORDERED THAT: ...

- B. The licensee shall show cause why safety-related construction activities, including reworking activities, should not remain suspended until the licensee:
 - (1) Has obtained an independent review of its management of the Zimmer project, including its quality assurance program and its quality verification program, to determine measures needed to ensure that construction of the Zimmer plant can be completed in conformance with the Commission's regulations and construction permit.
 - (a) The independent organization conducting this review shall be knowledgeable in QA/QC matters and nuclear plant construction and shall be acceptable to the Regional Administrator. The independent organization shall make recommendations to the licensee regarding necessary steps to ensure that the construction of the facility can be completed in conformance with the

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Commission's regulations and the construction permit. A copy of the independent organization's recommendations and all exchanges or correspondence, including drafts, between the independent organization and CG&E shall be submitted to the Regional Administrator at the same time as they are submitted to the licensee. In making recommendations, the independent organization shall consider at a minimum the following alternatives for management of the Zimmer project and shall weigh the advantages and disadvantages of each alternative:

1. Strengthening the present CG&E organization.
2. Creation of an organizational structure where the construction management of the project is conducted by an experienced outside organization reporting to the chief executive officer of CG&E.
3. Creation of an organizational structure where the quality assurance program is conducted by an experienced outside organization reporting to the chief executive officer of CG&E.
4. Creation of an organizational structure with both quality assurance and construction project management conducted by an experienced outside organization reporting to the chief executive officer of CG&E...."

CG&E's response to the Commission's November 12, 1982 Order is contained in correspondence dated November 26, 1982 and January 3, 1983, to ^{10, and 31,} Mr. James G. Keppler.

Although CG&E requested approval for Bechtel to conduct reviews of both Sections IV.B(1) and IV.B.(2) of the Order, this evaluation is limited to Section IV.B(1)(a) of the Order.

II. Selection of Independent Reviewer

CG&E has proposed that Bechtel Power Corporation perform both the management review under Section IV.B(1)(a) and the verification of the quality of construction and the preparation of a comprehensive plan for the continuation of construction under Section IV.B(2) of the Order. Additionally, CG&E intends to use Bechtel as "a joint manager with CG&E (licensee) of the project until its successful completion." Letter from W. H. Dickhoner, President of CG&E, to NRC Commissioners, dated November 10, 1982, ~~at~~ page 2. The NRC staff has considered CG&E submittals of November 26, 1982 and January 3, ^{10, and 31,} 1983, the written comments on the November 26 submittal provided by over one hundred members of the public (organizations and individuals), the clarification of submitted comments, and comments received at a public meeting held and in subsequent correspondence from the Government Accountability Project (GAP). in Cincinnati on January 5, 1983. In considering CG&E's proposal, the Staff has used as guidance the letter of February 2, 1982 from Chairman Palladino to Congressmen Ottinger and Dingell, which sets forth the "competence" and "independence" standards that have been applied by the Commission in determining the acceptability of proposed third-party reviewers.

The Staff has considered the qualifications of both the Bechtel organization and the individuals proposed as team members to conduct the independent review of CG&E's management of the Zimmer project. Inputs to this review included the information supplied in CG&E's submittal,

the Staff's existing knowledge of Bechtel's performance at other nuclear power plants and information from members of the public as to Bechtel's competence.

We have considered comments that problems encountered by Bechtel at identified nuclear construction sites (e.g., Midland) demonstrate that Bechtel is not qualified to perform the Zimmer management review. The Staff has reviewed Bechtel's overall performance in nuclear projects and has concluded that Bechtel is qualified to perform the Zimmer management review. We also note that Bechtel has proposed a process for review of the findings of the Zimmer team which will bring to bear the full expertise which Bechtel has to offer. ^{Specifically,} Bechtel has stated that the Zimmer team will operate independently of the functional management in the Ann Arbor Power Division (AAPD), that the team's findings will be critiqued by the AAPD functional management and that the team's report will also be reviewed by Bechtel Power Management, which works independently of the Divisions and reports directly to the President of the Bechtel Power Corporation.

CG&E's November 26, 1982 letter documents specific experience of the proposed Bechtel staff to be assigned to this project. The Staff has reviewed the qualifications of, and has made inquiries regarding those persons proposed by Bechtel to be assigned to work on the Zimmer management review team.

Based upon its review, the Staff concludes that Bechtel has assigned top quality personnel to the review team. A number of the individuals to be assigned to this review have significant experience through involvement on other projects. Their knowledge and experience in technical disciplines and in project management demonstrate their competence to conduct the management review at Zimmer.

In view of our findings with respect to the competence of Bechtel as an organization and the competence of the individual review team members, we conclude that Bechtel meets the Staff's technical competence standards.

The Staff also believes that an acceptable organization to conduct a verification program must also be independent of the utility under review. The Commission has defined independence ~~is defined~~ as being the ability "...to provide an objective, dispassionate technical judgment, provided solely on the basis of technical merit" Page of Responses to Questions, attached to Ottinger/Dingell letter. The Commission further defined the term by stating that the company approved to conduct an independent review must be one "... not previously involved with the activities... that they will now be reviewing...." Id.

The Staff has considered the information provided regarding Bechtel's role in the Zimmer project by CG&E and Bechtel and the comments offered by members of the public on the question of independence. We believe that Bechtel meets the standards of independence outlined in the

Ottinger/Dingell letter. However, a number of comments noted that Bechtel was contacted by CG&E prior to the issuance of the November 12, 1982 Order regarding assistance it could provide in completion of the Zimmer facility. We do not believe that this type of limited contact with CG&E or the Zimmer project would disqualify Bechtel from conducting a review of CG&E's management.

[See attached proposed language on Dillon, Reddy]

[OI will provide input here to describe the investigation of when Bechtel was first onsite.]

Notwithstanding the Ottinger/Dingell letter, we also believe it is necessary to consider whether CG&E's intention to use Bechtel as a joint manager for completion of the facility and for purposes of assistance in meeting the requirements of Section IV.B(2) of the Order compromises Bechtel's independence to perform the management review function. While the Staff expects Bechtel to conduct an objective review of CG&E management, the Staff believes that a separate independent party should be retained to conduct an overview of Bechtel's review and conclusions under Section IV.B(1)(a) and CG&E's recommendation under Section IV. B(1)(b) of the Order. This is required because the proposed subsequent role of Bechtel could adversely affect their ability to perform the independent management review. This separate independent party must be acceptable to the NRC and should be a recognized management consultant which meets the Staff's independence standards. In this manner, CG&E will have the benefit of Bechtel's expert advice of its management of the Zimmer facility and the NRC will be further assured that the proposed relationship between Bechtel and CG&E does not compromise the recommendations made by CG&E under Section IV.B(1)(b) of the Order.

III. Review Program

Bechtel's proposed outline and scope for their management review of Zimmer was submitted to the NRC with CG&E's November 26, 1982 response. The Staff has reviewed this outline and scope and finds it acceptable. Some remaining details, however, need to be clarified. To resolve the Staff's detailed questions, a meeting, open to the public, should be held to obtain additional information from CG&E and Bechtel regarding details associated with Bechtel's proposed plan of action.

IV. Summary and Conclusion

Based on the Staff's review of the documentation submitted by CG&E and the verbal and written comments of members of the public, we conclude that Bechtel meets the Staff's independence and competence criteria for third party reviewers. However, since a significant amount of concern has been raised regarding the planned dual role of Bechtel, the Staff believes that an independent overview of Bechtel's review and conclusions and CG&E's recommendations is required.

Dillon, Red ⁰¹ [Add to p. 6 of Staff Evaluation]

At the January 5, 1983 public meeting and subsequent letters, the Coalition for Affordable and Safe Energy (CASE) and GAP asserted that Bechtel would have a financial conflict-of-interest affecting its objectivity in reviewing CG&E's management of Zimmer because Bechtel wholly-owns Dillon Read & Co. Inc., an investment banker which has participated in underwriting debt and equity of the three owners of the Zimmer facility. In letters dated January 10 and 31, 1983, which are attached to this evaluation, CG&E has transmitted information from Bechtel regarding the ownership relationship between the Bechtel family and Dillon, Read and the percentage of Dillon, Read's business that is represented by its underwriting from CG&E, Dayton Power & Light Company, and American Electric Power Company (parent of Columbus & Southern Ohio Electric Company). On the basis of these submittals, the staff concludes that there could only be a speculative and remote effect on Dillon, Read's business as a result of any recommendations of Bechtel Power Corporation with respect to the Zimmer project. Bechtel states that it ". . . has no intention of permitting the financial interests of Dillon, Read & Co. Inc. to interfere with the independent exercise of its judgment as a professional engineering firm." Letter of H. W. Wahl (Bechtel) to William H. Dickhoner (President, CG&E), dated January 31, 1983, page 2. The staff concludes that the financial relationship between the Bechtel family and Dillon, Read does not compromise Bechtel's ability to conduct an independent review of CG&E's management of Zimmer.

Dillon, Read [Add to p. 6 of Staff
Evaluation].

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states that it "... has no intention of permitting the financial interests of Dillon, Read & Co., Inc. to interfere with the independent exercise of its judgment as a professional engineering firm." Letter of H. W. Wahl (Bechtel) to William H. Dickhoner (President, CG&E), dated January 31, 1983, page 2. The staff concludes that the financial relationship between the Bechtel family and Dillon, Read does not compromise Bechtel's independence ability to conduct an independent review of CG&E's management of Zimmer.

Docket No. 50-358

Cincinnati Gas and Electric
Company

ATTN: Mr. W. H. Dickhoner
President

139 East 4th Street
Cincinnati, OH 45201

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We find the selection of Bechtel to be consistent with the independence criteria outlined in the Commission's letter of February 1, 1982 to Congressmen Ottinger and Dingell. We believe Bechtel can be of considerable help to CG&E and the Zimmer project based upon their proven success in assisting other utilities with their projects (e.g., South Texas; WNP-2; Diablo Canyon). However, since it appears that you may propose to retain Bechtel in a substantive role in the completion of the project, you should understand that we would only consider Bechtel eligible for such a proposed

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Company

future assignment provided that you retain an additional independent organization, ^{QC} ~~ex~~ceptable to the NRC staff, to conduct an overview of Bechtel and CG&E's review, conclusions, and recommendations concerning the management of the Zimmer project pursuant to Section IV.B.(1) of the Order. Enclosure 1 provides our rationale ^{for} ~~to~~ this decision. Note that this requirement for an independent organization to conduct such an overview would not replace the requirement to include an outside audit organization, which did not perform the activities being audited, in the comprehensive quality verification plan required under Section IV.B.(2) of the Order.

The independent overview organization shall be a recognized management ~~analysis~~ consultant and must satisfy the independent ^{QC} standards contained in the Ottinger/Dingell letter. Furthermore, this organization should possess the requisite amount of technical expertise to perform a meaningful audit of Bechtel. This overview is intended to assure that the proposed future relationship between CG&E and Bechtel does not compromise the management review findings and recommendations. Upon completing its effort, the independent overview organization shall provide CG&E and the NRC simultaneously with a written report documenting its actions and conclusions.

We look forward to your proposal of an organization to conduct the independent overview of the management review and recommendations. We intend

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old language =
put back in.

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I am also enclosing a copy of the protocol which NRC expects to be followed during the ~~the~~ management review under Section IV.B(1) ^{November 26, 1982} of the Order as to contacts between or among CG&E, Bechtel, and ~~the~~ ^{and other independent parties} additional third party selected to do ~~the~~ ^{retained by Bechtel to perform reviews under the} independent overview. (Enclosure 2). ^{Order.}

While your November 26, 1982 letter requested approval of Bechtel for both Sections IV.B(1) and IV.B(2) of the Order, the approval granted by this letter is limited to Section IV.B(1)(a).

Cincinnati Gas and Electric
Company

4

Sincerely,

James G. Keppler
Regional Administrator

Enclosures: As stated

cc w/enclosures:

Mr. Earl A. Borgmann

Senior Vice President

J. R. Schott, Plant

Superintendent

J. D. Flynn, Manager

Licensing Environmental

Affairs Department

DMB/Document Control Desk (RIDS)

Resident Inspector, RIII

Harold W. Kohn, Power

Siting Commission

Citizens Against a Radioactive

Environment

Cincinnati Gas and Electric
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5

Helen W. Evans, State of Ohio

Robert M. Quillin, Ohio

Department of Health

Thomas Applegate

Thomas Devine, Associate

Director, Institute for

Policy Studies

Dave Martin, Office of

Attorney General

Mark Wetterhahn, Esq.

Jerome A. Vennemann, Esq.

Gretchen Hummel, Ohio

Consumers' Counsel

James R. Williams, State

Liaison Officer, Ohio

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future assignment provided that you retain an additional independent organization, acceptable to the NRC staff, to conduct an overview of Bechtel and CG&E's review, conclusions, and recommendations concerning the management of the Zimmer project pursuant to Section IV.B.(1) of the Order. Enclosure 1 provides our rationale to this decision. Note that this requirement for an independent organization to conduct such an overview would not replace the requirement to include an outside audit organization, which did not perform the activities being audited, in the comprehensive quality verification plan required under Section IV.B.(2) of the Order.

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DMB/Document Control Desk (RIDS)

Resident Inspector, RIII

Harold W. Kohn, Power

Siting Commission

Citizens Against a Radioactive

Environment

Company

Helen W. Evans, State of Ohio

Robert M. Quillin, Ohio

Department of Health

Thomas Applegate

Thomas Devine, Associate

Director, Institute for

Policy Studies

Dave Martin, Office of

Attorney General

Mark Wetterhahn, Esq.

Jerome A. Vennemann, Esq.

Gretchen Hummel, Ohio

Consumers' Counsel

James R. Williams, State

Liaison Officer, Ohio

Disaster Services Agency

Docket No. 50-358

Cincinnati Gas and Electric

- Company

ATTN: Mr. W. H. Dickhoner

President

139 East 4th Street

Cincinnati, OH 45201

Dear Mr. Dickhoner:

By letter dated November 26, 1982, you proposed that Bechtel Power Corporation (Bechtel) be retained as the independent organization to conduct the review of CG&E's management of the Zimmer project required by Section IV.B(1)(a) of the Commission's November 12, 1982 Order. Supplemental information in support of this request was provided with your letter of January 3, 1983, in response to questions contained in my letter of December 28, 1982.

We find the selection of Bechtel to be consistent with the independence criteria outlined in the Commission's letter of February 1, 1982 to Congressmen Ottinger and Dingell. We believe Bechtel can be of considerable help to CG&E and the Zimmer project based upon their proven success in assisting other utilities with their projects (e.g., South Texas; WNP-2; Diablo Canyon). However, since ~~you made it clear that you intend to retain Bechtel as co-manager in the completion of Zimmer,~~ *it appears that you may propose to retain Bechtel in a substantive role to complete the project* we are concerned that ~~this relationship has the potential for inspecting Bechtel's performance.~~

Cincinnati Gas and Electric
Company

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~~of the independent management review. Therefore, assuming you still intend to retain Bechtel for Section IV.B.(2) of the Order, we find Bechtel acceptable to conduct the independent management review, provided that you retain a separate third party organization, acceptable to the NRC staff, to conduct an overview of Bechtel's review and conclusions and CG&E's recommendations.~~

Enclosure 1 provides ^{our} ~~the~~ rationale for ^{this} ~~our~~ decision. *Note that this requirement for an independent to conduct such an G&E review*

The independent overview organization shall be a recognized management analysis consultant, and must satisfy the independence standards contained

in the Ottinger/Dingell letter. Furthermore, this organization should ^{possess} ~~not~~ *the requisite amount of technical expertise to perform a meaningful audit* ~~have any present expectation that it will perform additional services for~~ *of Bechtel.*

CG&E under the November 12, 1982 Order. This overview is intended to assure that the proposed future relationship between CG&E and Bechtel does not compromise the management review findings and recommendations. Upon completing its effort, the independent overview organization shall provide CG&E and the NRC simultaneously with a written report documenting its actions and conclusions.

We look forward to your proposal of an organization to conduct the independent overview of the management review and recommendations. We intend to act as expeditiously as possible on that proposal. *In our review, we have considered public comments.* ~~Since the public's comments offered on your proposal for approval of Bechtel have been considered in~~

Company

~~our criteria for the independent overview organization, further opportunity for public comment is not envisioned.~~

While we have approved CG&E's proposal to use Bechtel to perform the review under Section IV.B(1)(a) of the Order subject to the retention of an acceptable management consultant, certain details pertaining to Bechtel's plans for conducting the management review of CG&E need amplification. To expedite resolution of these matters, we would like to meet with you and Bechtel as early as possible. We propose to hold the meeting in Cincinnati, and make it open to public observation. I will contact you shortly regarding arrangements for the meeting.

I am also enclosing a copy of the protocol which NRC expects to be followed during the management review under Section IV.B(1) of the Order as to contacts between or among CG&E, Bechtel, and the additional third party selected to do the independent overview (Enclosure 2).

While your November 26, 1982 letter requested approval of Bechtel for both Sections IV.B(1) and IV.B(2) of the Order, the approval granted by this letter is limited to Section IV.B(1)(a).

Cincinnati Gas and Electric
Company

4

Sincerely,

James G. Keppler
Regional Administrator

Enclosures: As stated

cc w/enclosures:

Mr. Earl A. Borgmann

Senior Vice President

J. R. Schott, Plant

Superintendent

J. D. Flynn, Manager

Licensing Environmental

Affairs Department

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Docket No. 50-358

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We find the selection of Bechtel to be consistent with the independence criteria outlined in the Commission's letter of February 1, 1982 to Congressmen Ottinger and Dingall. We believe Bechtel can be of considerable help to CG&E and the Zimmer project based upon their proven success in assisting other utilities with their projects (e.g., South Texas; WNP-2; Diablo Canyon). However, we are concerned that CG&E's stated intent to retain Bechtel as co-manager in the completion of Zimmer may prejudice Bechtel's complete candor in the management review. Therefore, balancing

Company

the above, we find Bechtel acceptable to conduct the independent management review, provided that you retain a separate third party organization, acceptable to the NRC staff, to conduct an overview of Bechtel's review and conclusions and CG&E's recommendations. Enclosure 1 provides our evaluation of your submittals.

The independent overview organization shall be a recognized management analysis consultant, with minimal involvement in the nuclear industry, and must satisfy the independence standards contained in the Ottinger/Dingall letter. Furthermore, this organization should not have any present expectation that it will perform additional services for CG&E under the November 12, 1982 Order. This overview is intended to assure that the proposed future relationship between CG&E and Bechtel does not compromise the management review findings and recommendations. Upon completing its effort, the overview organization shall provide CG&E and the NRC simultaneously with a written report documenting its actions and conclusions.

We look forward to your proposal of an organization to conduct the overview of the management review and recommendations. We intend to act as expeditiously as possible on that proposal. Since the public's comments offered on your proposal for approval of Bechtel have been reflected in

our criteria for the overview organization, further opportunity for public comment is not envisioned.

While we have approved Bechtel to perform the review under Section IV.B(1)(a) of the Order, certain details pertaining to Bechtel's plans for conducting the management review of CG&E need amplification. To expedite resolution of these matters, we would like to meet with you and Bechtel as early as possible. We propose to hold the meeting in Cincinnati, and make it open to public observation. I will contact you shortly regarding arrangements for the meeting.

I am also enclosing a copy of the protocol which NRC expects to be followed during the management review under Section IV.B(1) of the Order as to contacts between or among CG&E, Bechtel, and the additional third party selected to do the overview (Enclosure 2).

While your November 26, 1982 letter requested approval of Bechtel for both Sections IV.B(1) and IV.B(2) of the Order, the approval granted by this letter is limited to Section IV.B(1)(a).

Cincinnati Gas and Electric
Company

4

Sincerely,

James G. Keppler
Regional Administrator

Enclosures: As stated

cc w/enclosures:

Mr. Earl A. Borgmann

Senior Vice President

J. R. Schott, Plant

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J. D. Flynn, Manager

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Disaster Services Agency

Docket No. 50-358

Cincinnati Gas and Electric
Company

ATTN: Mr. W. H. Dickhoner
President

139 East 4th Street
Cincinnati, OH 45201

*Mr Warwick -
Jim Miller sent
a copy of this to
S F Young, ^{blood}
Lauer*

Dear Mr. Dickhoner:

By letter dated November 26, 1982, you proposed that Bechtel Power Corporation (Bechtel) be retained as the independent organization to conduct the review of CG&E's management of the Zimmer project required by Section IV.B(1)(a) of the Commission's November 12, 1982 Order. Supplemental information in support of this request was provided with your letter of January 3, 1983, in response to questions contained in my letter of December 28, 1982.

We find the selection of Bechtel to be consistent with the independence criteria outlined in the Commission's letter of February 1, 1982 to Congressmen Ottinger and Dingall. We believe Bechtel can be of considerable help to CG&E and the Zimmer project based upon their proven success in assisting other utilities with their projects (e.g., South Texas; WNP-2; Diablo Canyon). However, we are concerned that CG&E's stated intent to retain Bechtel as co-manager in the completion of Zimmer may prejudice Bechtel's complete candor in the management review. Therefore, balancing

Company

the above, we find Bechtel acceptable to conduct the independent management review, provided that you retain a separate third party organization, acceptable to the NRC staff, to conduct an overview of Bechtel's review and conclusions and CG&E's recommendations. Enclosure 1 provides our evaluation of your submittals.

The independent overview organization shall be a recognized management analysis consultant, with minimal involvement in the nuclear industry, and must satisfy the independence standards contained in the Ottinger/Dingall letter. Furthermore, this organization should not have any present expectation that it will perform additional services for CG&E under the November 12, 1982 Order. This overview is intended to assure that the proposed future relationship between CG&E and Bechtel does not compromise the management review findings and recommendations. Upon completing its effort, the overview organization shall provide CG&E and the NRC simultaneously with a written report documenting its actions and conclusions.

We look forward to your proposal of an organization to conduct the overview of the management review and recommendations. We intend to act as expeditiously as possible on that proposal. Since the public's comments offered on your proposal for approval of Bechtel have been reflected in

Company

our criteria for the overview organization, further opportunity for public comment is not envisioned.

While we have approved Bechtel to perform the review under Section IV.B(1)(a) of the Order, certain details pertaining to Bechtel's plans for conducting the management review of CG&E need amplification. To expedite resolution of these matters, we would like to meet with you and Bechtel as early as possible. We propose to hold the meeting in Cincinnati, and make it open to public observation. I will contact you shortly regarding arrangements for the meeting.

I am also enclosing a copy of the protocol which NRC expects to be followed during the management review under Section IV.B(1) of the Order as to contacts between or among CG&E, Bechtel, and the additional third party selected to do the overview (Enclosure 2).

While your November 26, 1982 letter requested approval of Bechtel for both Sections IV.B(1) and IV.B(2) of the Order, the approval granted by this letter is limited to Section IV.B(1)(a).

Cincinnati Gas and Electric
Company

4

Sincerely,

James G. Keppler
Regional Administrator

Enclosures: As stated

cc w/enclosures:

Mr. Earl A. Borgmann

Senior Vice President

J. R. Schott, Plant

Superintendent

J. D. Flynn, Manager

Licensing Environmental

Affairs Department

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Disaster Services Agency

Docket No. 50-358

Cincinnati Gas and Electric

Company

ATTN: Mr. W. H. Dickhoner

President

139 East 4th Street

Cincinnati, OH 45201

Dear Mr. Dickhoner:

By letter dated November 26, 1982, you proposed that Bechtel Power Corporation (Bechtel) be retained as the independent organization to conduct the review of CG&E's management of the Zimmer project required by Section IV.B(1)(a) of the Commission's November 12, 1982 Order. Supplemental information in support of this request was provided with your letters of January 3, 10, and 31, 1983.

We find the selection of Bechtel for this assignment to be consistent with the independence criteria outlined in the Commission's letter of February 1, 1982 to Congressmen Ottinger and Dingell. We believe Bechtel can be of considerable help to CG&E and the Zimmer project based upon their proven success in assisting other utilities with their projects (e.g., South Texas; WNP-2; Diablo Canyon). However, since it appears that you may also propose to retain Bechtel in a substantive role in the completion of the project, you should understand that we would only consider Bechtel eligible for such a role provided that you

retain an additional independent organization, acceptable to the NRC staff, to conduct an overview of Bechtel's and CG&E's review, conclusions, and recommendations concerning the management of the Zimmer project pursuant to Section IV.B.(1) of the Order. Enclosure 1 provides our rationale for this decision. Note that this requirement for an additional independent organization to conduct such an overview would not replace the requirement to include an outside audit organization, which did not perform the activities being audited, in the comprehensive quality verification plan required under Section IV.B.(2) of the Order.

The independent overview organization should be a recognized management consultant and must satisfy the independence standards contained in the Ottinger/Dingell letter. This overview is intended to assure that the management review, findings, and recommendations are not compromised by the proposed future relationship between CG&E and Bechtel. Upon completing its effort, the independent overview organization shall provide CG&E and the NRC simultaneously with a written report documenting its actions and conclusions.

We look forward to your proposal of an organization to conduct the independent overview of the management review and recommendations. We intend to act as expeditiously as possible on that proposal. Since the public's extensive

Company

comments offered on your proposal for approval of Bechtel have been considered in our decision, we do not envision that it will be necessarily to await further public comment before reaching our decision.

While we have approved CG&E's proposal to use Bechtel to perform the review under Section IV.B(1)(a) of the Order subject to the retention of an acceptable management consultant, certain details pertaining to Bechtel's plans for conducting the management review of CG&E need amplification. To expedite resolution of these matters, we would like to meet with you and Bechtel as early as possible. We propose to hold the meeting in Cincinnati, and make it open to public observation. I will contact you shortly regarding arrangements for the meeting.

I am also enclosing a copy of the protocol which NRC expects to be followed during the management review under Section IV.B(1) of the Order as to contacts between or among CG&E, the independent management reviewer (Bechtel), and the party selected to do the independent overview (Enclosure 2).

The approval granted by this letter is limited to Section IV.B(1)(a) of the Order.

Cincinnati Gas and Electric
Company

4

Sincerely,

James G. Keppler
Regional Administrator

Enclosures: As stated

cc: See page 4

Cincinnati Gas and Electric
Company

5

cc w/enclosures:

Mr. Earl A. Borgmann

Senior Vice President

J. R. Schott, Plant

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J. D. Flynn, Manager

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6

Dave Martin, Office of
Attorney General

Mark Wetterhahn, Esq.

Jerome A. Vennemann, Esq.

Gretchen Hummel, Ohio
Consumers' Counsel

James R. Williams, State
Liaison Officer, Ohio
Disaster Services Agency

J. Keplers Reg III
J. Lieberman O.E.L.D.
1-Page

1-10-82
1:30pm

Stello's comments

Docket No. 50-358
Cincinnati Gas and Electric
Company
ATTN: Mr. W. H. Dickhoner
President
139 East 4th Street
Cincinnati, OH 45201

We hereby approve CG&E to
authorize Bechtel Power
Corporation to ~~conduct~~ conduct
the review as set forth
in Section IV.B(1)(a) of
the November 12, 1982 order.

Dear Mr. Dickhoner:

By letter dated November 26, 1982, you proposed that Bechtel Power Corporation (Bechtel) be retained as the independent organization to conduct the review of CG&E's management of the Zimmer project required by Section IV.B(1)(a) of the Commission's November 12, 1982 Order. Supplemental information in support of this request was provided with your letter of January 3, 1983, in response to questions contained in my letter of December 28, 1982.

We find the selection of Bechtel for this assignment to be consistent with the independence criteria outlined in the Commission's letter of February 1, 1982 to Congressmen Ottinger and Dingell. We believe Bechtel can be of considerable help to CG&E and the Zimmer project based upon their proven success in assisting other utilities with their projects (e.g., South Texas; WNP-2; Diablo Canyon). However, since it appears that you may also propose to retain Bechtel in a substantive role in the completion of the project, you should understand that we would only consider Bechtel eligible for such a role provided that you retain an additional independent organization, acceptable to the NRC staff, to conduct an overview of Bechtel's and CG&E's review, conclusions, and recommendations concerning the management of the Zimmer project pursuant to Section IV.B.(1) of the Order. Enclosure 1 provides our rationale for this

The review set forth in
Section IV.B.(2) of the November 12, 1982 Order.
Prior to initiation of

This requirement applies if Bechtel is used
in a substantive role in completion of the project. NRC
approval of the independent organization is needed if this
option is selected.
App C-4 D-to

with other CG&E proposes an outside org. to conduct the verification of the quality of construction and then put together a protocol for that stage.

COMMUNICATIONS BETWEEN AND AMONG CG&E, ~~BECHTEL~~, AND

INDEPENDENT MANAGEMENT REVIEWER, ~~OUTSIDE~~ AUDIT ORGANIZATION

THIRD PARTY OVERVIEWER

In order to ensure the "arms length" relationship between CG&E (including its contractors and subcontractors) and the independent reviewer, ~~the outside~~ ^{Support} ~~audit organization~~ ^{there is an} and the third party overviewer, while at the same time not ^{independent} unduly restricting the ability of all to complete their efforts, the following protocol shall be adhered to:

1. Consistent with Section IV.B(1.) (a) of the Commission's November 12, 1982 Order, recommendations, ^{findings, evaluations} and all exchanges of correspondence, including drafts, between the independent reviewer ~~and outside~~ ^{audit organization} and CG&E will be submitted to the Regional Administrator at the same time as they are submitted to the licensee. Since the Regional Administrator has additionally required CG&E to propose a ^{independent} third party overviewer, the above requirements will also apply to that organization.

2. The independent management reviewer, ~~the outside audit organization~~ ^{(required by Section IV B(2))} and the third party overview organization have a clear need for ^{respective} prompt access to whatever information they require to fulfill their role as described in the Commission's November 12, 1982 Order and in the cover letter to this protocol. To this end, the independent reviewer, outside audit organization and third party overviewer may request documentary material, meet with and interview individuals, conduct telephone conversations, or visit the site to obtain information ~~with~~ prior notification of the NRC. All communications

audit org. / I do not understand IV B (1) (a)

Support there is an independent party for IV B (2) aside from auditor

I think it gets very confusing as to which third party we're talking about. Improver product to speak at Bechtel.

be documented and such documentation shall be maintained in a location accessible for NRC examination. To the extent that any individual contacted or interviewed requests that his ^{or her} name not be revealed, that

information need not be included in the documentation but shall, if requested, be made available to appropriate NRC personnel. ^{with CG&E}

3. If Bechtel or the independent overviewer wishes to ^{provide} an interim ~~discuss substantive matters related to information obtained~~ report to CG&E, or to discuss its findings or conclusions with CG&E in advance of completing its report, such ^{or if CG&E desires such communication} communication shall be in a ^{done} meeting open to public observation.

In this regard, CG&E shall provide a minimum of five days advance notice to the Regional Administrator.

The Regional Administrator shall make reasonable efforts to notify representatives of interested members of the public of the meeting, but the inability of any person to attend shall not be cause for postponement of the meeting. Transcripts or written minutes of all such meetings should be prepared by Bechtel or the independent overviewer

and provided to the NRC in a timely manner.

^{Communications solely for the papers with respect to the financial and administrative aspect of any contract entered into}

3. The NRC staff will have direct contact with Bechtel or the independent overviewer, as necessary.

^{with an independent overviewer Bechtel or the independent overviewer may be conducted without prior notification to the NRC. opportunity for public observation.}

4. All documents submitted to the NRC subject to this Protocol will be

placed in the NRC Public Document Rooms (PDR) in Batavia, Ohio, and Washington, D.C., and will be available there for public examination and copying.

After the reports and recommendations prepared under Section IV.B(1)(a) of the Commission's Order have been received by the Regional Administrator

and prior to approval of the recommendations, a meeting, open to public observation, will be held in Cincinnati to discuss the findings and recommendations. A transcript of the meeting will be prepared by the NRC and placed in the PDR.

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COMMUNICATIONS BETWEEN AND AMONG CG&E, BECHTEL, AND AN
INDEPENDENT OVERVIEW ORGANIZATION

Section IV.B(1)(a) of the Commission's November 12, 1982 Order requires that Bechtel's recommendations and all exchanges of correspondence, including drafts, between Bechtel and CG&E be submitted to the Regional Administrator at the same time as they are submitted to the licensee. Since the Regional Administrator has additionally required CG&E to propose an independent overview organization, the above requirements will also apply to that organization. In order to ensure the "arms length" relationship between CG&E, Bechtel and the independent overview organization intended by the above requirement, while at the same time not unduly restricting the ability of all to complete their jobs, the following protocol shall be adhered to with respect to communications between and among CG&E, Bechtel, and the independent overview. We recognize that communications have already occurred between CG&E and Bechtel. Any of these communications that provide a basis for Bechtel's conclusions and recommendations should be summarized and retained as described below.

1. Bechtel and the independent overview organization have a clear need for prompt, candid access to whatever information they require to fulfill their role as described in the Commission's November 12, 1982 Order and in the cover letter to this protocol. To this end, Bechtel and the independent overview organization may ^{request documentary materials,} meet with and interview individuals, conduct telephone conversations, or visit the site to obtain information ^{All communications and transmittals of information} without prior notification of the NRC. These contacts shall, however,

and transmittals of information shall, however, be documented and such documentation shall be maintained in a location accessible for NRC examination. To the extent that any individual contacted or interviewed requests that his or her name not be revealed, that information need not be included in the documentation but shall, if requested, be made available to appropriate NRC personnel.

3. If the independent reviewer, outside audit organization or third *Independent* party overviewer wishes to discuss substantive matters related to information obtained or to provide an interim report to CG&E or to discuss its findings or conclusions with CG&E in advance of completing its report, or if CG&E desires such communication, it shall be in a meeting open to public observation. In this regard, CG&E shall provide a minimum of five days advance notice to the Regional Administrator. The Regional Administrator shall make reasonable efforts to notify representatives of interested members of the public of the meeting, but the inability of any person to attend shall not be cause for delay or postponement of the meeting. Transcripts or written minutes of all such meetings should be prepared by the independent reviewer, outside audit organization or third party overviewer and provided to the NRC in a timely manner. *Only those* communications solely for the purpose of obtaining clarification of information or solely with respect to the financial and administrative aspects of any contract entered

This cuts into the freedom under § 2

into with an independent reviewer, outside audit organization or third party overviewer may be conducted informally.

4. The NRC staff will have direct contact with the independent management reviewer or overviewer, as necessary.
5. All documents submitted to the NRC subject to this Protocol will be placed in the NRC Public Document Rooms (PDR) in Batavia, Ohio, and Washington, D.C., and will be available there for public examination and copying.

*INDEPENDENT MANAGEMENT
REVIEWER, OUTSIDE
AUDIT ORGANIZATION*

COMMUNICATIONS BETWEEN AND AMONG CG&E, ~~BECHTEL~~, AND
THIRD PARTY OVERVIEWER

In order to ensure the "arms length" relationship between CG&E (including its contractors and subcontractors) and the independent reviewer, the outside audit organization and the third party overviewer, while at the same time not unduly restricting the ability of all to complete their efforts, the following protocol shall be adhered to:

1. Consistent with Section IV.B(1.) (a) of the Commission's November 12, 1982 Order, recommendations, ^{findings, evaluations} and all exchanges of correspondence, including drafts, between the independent reviewer and outside audit organization and CG&E will be submitted to the Regional Administrator at the same time as they are submitted to the licensee. Since the Regional Administrator has additionally required CG&E to propose a third party overviewer, the above requirements will also apply to that organization.

2. The independent management reviewer, the outside audit organization ^{(required by Section IV B(2))} and the third party overview organization have a clear need for prompt access to whatever information they require to fulfill their role as described in the Commission's November 12, 1982 Order and in the cover letter to this protocol. To this end, the independent reviewer, outside audit organization and third party overviewer may request documentary material, meet with and interview individuals, conduct telephone conversations, or visit the site to obtain information without prior notification of the NRC. All communications

and transmittals of information shall, however, be documented and such documentation shall be maintained in a location accessible for NRC examination. To the extent that any individual contacted or interviewed requests that his or her name not be revealed, that information need not be included in the documentation but shall, if requested, be made available to appropriate NRC personnel.

3. If the independent reviewer, outside audit organization or third party overviewer wishes to discuss substantive matters related to information obtained or to provide an interim report to CG&E or to discuss its findings or conclusions with CG&E in advance of completing its report, or if CG&E desires such communication, it shall be in a meeting open to public observation. In this regard, CG&E shall provide a minimum of five days advance notice to the Regional Administrator. The Regional Administrator shall make reasonable efforts to notify representatives of interested members of the public of the meeting, but the inability of any person to attend shall not be cause for delay or postponement of the meeting. Transcripts or written minutes of all such meetings should be prepared by the independent reviewer, outside audit organization or third party overviewer and provided to the NRC in a timely manner. ^{Only those} communications solely for the purpose of obtaining clarification of information or solely with respect to the financial and administrative aspects of any contract entered

into with an independent reviewer, outside audit organization or third party overviewer may be conducted informally.

4. The NRC staff will have direct contact with the independent management reviewer or overviewer, as necessary.
5. All documents submitted to the NRC subject to this Protocol will be placed in the NRC Public Document Rooms (PDR) in Batavia, Ohio, and Washington, D.C., and will be available there for public examination and copying.

COMMUNICATIONS BETWEEN AND AMONG CG&E, INDEPENDENT MANAGEMENT
REVIEWER (BECHTEL), AND INDEPENDENT OVERVIEWER

In order to ensure the "arms length" relationship between CG&E (including its contractors and subcontractors), the independent management reviewer (Bechtel), and the independent overviewer, while at the same time not unduly restricting the ability of all to complete their efforts, the following protocol shall be adhered to:

1. Consistent with the Commission's November 12, 1982 Order, recommendations, findings, evaluations and all exchanges of correspondence, including drafts, between the independent management reviewer and CG&E will be submitted to the Regional Administrator at the same time as they are submitted to the licensee. Since the Regional Administrator has additionally required CG&E to propose an independent management consultant to conduct an overview of the management reviewer's and CG&E's review, conclusions, and recommendations concerning the management of the Zimmer project, the above requirements will also apply to that organization.

2. The independent management reviewer and the independent overviewer have a clear need for prompt access to whatever information they require to fulfill their roles as described in the Commission's November 12, 1982 Order and in the cover letter to this protocol. To this end, the independent reviewer and overviewer may request documentary material, meet with and interview individuals, conduct

telephone conversations, or visit the site to obtain information without prior notification to the NRC. All communications and transmittals of information shall, however, be documented and such documentation shall be maintained in a location accessible for NRC examination. To the extent that any individual contacted or interviewed requests that his or her name not be revealed, that information need not be included in the documentation but shall, if requested, be made available to appropriate NRC personnel.

3. If the independent reviewer or overviewer wishes to discuss with CG&E substantive matters related to information obtained, to provide an interim report to CG&E, or to discuss its findings or conclusions with CG&E in advance of completing its report, or if CG&E desires such communication, such discussions shall be accomplished in meetings open to public observation. In this regard, CG&E shall provide a minimum of five days advance notice to the Regional Administrator of any such meeting. The Regional Administrator shall make reasonable efforts to notify representatives of interested members of the public of the meeting, but the inability of any person to attend shall not be cause for delay or postponement of the meeting. Transcripts or written minutes of all such meetings should be prepared by ^{the organization requesting the meeting} CG&E and provided to the NRC in a timely manner. Any portion of such meetings which deals with proprietary information, may be closed to the public.

4. Nothing in this Protocol shall affect the right of the NRC staff
to have direct contact (without the attendance of any other persons)
with the independent management reviewer or overviewer, as necessary,
except where the staff determines that such direct contacts are
necessary, ^{and CG&E, the independent reviewer, and/or} all meetings between the staff ~~and CG&E,~~ the independent
overviewer will be open to public observation, ^{except when the}
^{staff deems it inappropriate.}
5. All documents submitted to, or transmitted by, the NRC subject to
this Protocol will be placed in the NRC Public Document Rooms
(PDR) in Batavia, Ohio, and Washington, D.C., and will be available
there for public examination and copying.

COMMUNICATIONS BETWEEN AND AMONG CG&E, INDEPENDENT MANAGEMENT

REVIEWER AND THIRD PARTY OVERVIEWER

In order to ensure the "arms length" relationship between CG&E (including its contractors and subcontractors) and the independent reviewer, and the third party overviewer, while at the same time not unduly restricting the ability of all to complete their efforts, the following protocol shall be adhered to:

1. Consistent with the Commission's November 12, 1982 Order, recommendations, findings, evaluations and all exchanges of correspondence, including drafts, between the independent reviewer and CG&E will be submitted to the Regional Administrator at the same time as they are submitted to the licensee. Since the Regional Administrator has additionally required CG&E to propose a third party overviewer, the above requirements will also apply to that organization.
2. The independent management reviewer and the third party overview organization have a clear need for prompt access to whatever information they require to fulfill their role as described in the Commission's November 12, 1982 Order and in the cover letter to this protocol. To this end, the independent reviewer and third party overviewer may request documentary material, meet with and interview individuals, conduct telephone conversations, or

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visit the site to obtain information without prior notification of the NRC. All communications and transmittals of information shall, however, be documented and such documentation shall be maintained in a location accessible for NRC examination. To the extent that any individual contacted or interviewed requests that his or her name not be revealed, that information need not be included in the documentation but shall, if requested, be made available to appropriate NRC personnel.

3. If the independent reviewer or third party overviewer wishes to discuss substantive matters related to information obtained or to provide an interim report to CG&E or to discuss its findings or conclusions with CG&E in advance of completing its report, or if CG&E desires such communication, it shall be in a meeting open to public observation. In this regard, CG&E shall provide a minimum of five days advance notice to the Regional Administrator. The Regional Administrator shall make reasonable efforts to notify representatives of interested members of the public of the meeting, but the inability of any person to attend shall not be cause for delay or postponement of the meeting. Transcripts or written minutes of all such meetings should be prepared by the independent reviewer or third party overviewer and provided to the NRC in a timely manner. Communications solely with respect to the financial

and administrative aspects of any contract entered into with an independent reviewer or third party overviewer may be conducted without opportunity for public observation.

4. The NRC staff will have direct contact with the independent management reviewer or overviewer, as necessary.

5. All documents submitted to the NRC subject to this Protocol will be placed in the NRC Public Document Rooms (PDR) in Batavia, Ohio, and Washington, D.C., and will be available there for public examination and copying.

COMMUNICATIONS BETWEEN AND AMONG CG&E, BECHTEL, AND

THIRD PARTY OVERVIEWER

Section IV.B(1)(a) of the Commission's November 12, 1982 Order requires that the independent management reviewer's recommendations and all exchanges of correspondence, including drafts, between the independent reviewer and CG&E be submitted to the Regional Administrator at the same time as they are submitted to the licensee. Since the Regional Administrator has additionally required CG&E to propose a third party overviewer, the above requirements will also apply to that organization. In order to ensure the "arms length" relationship between CG&E and the independent reviewer/overviewer intended by the above requirement, while at the same time not unduly restricting the ability of all to complete their jobs, the following protocol shall be adhered to with respect to communications between and among CG&E, Bechtel, and the third party overviewer.

1. The independent management reviewer and the third party overview organization have a clear need for prompt, candid access to whatever information they require to fulfill their role as described in the Commission's November 12, 1982 Order and in the cover letter to this protocol. To this end, the independent reviewer and overviewer may meet with and interview individuals, conduct telephone conversations, or visit the site to obtain information without prior notification of the NRC. These contacts shall, however, be documented and such documentation shall be maintained in a location accessible for NRC examina-

tion. To the extent that any individual contacted or interviewed requests that his name not be revealed, that information need not be included in the documentation.

2. If the independent reviewer or overviewer wishes to provide an interim report to CG&E or to discuss its findings or conclusions with CG&E in advance of completing its report, such communication shall be in a meeting open to public observation. In this regard, CG&E shall provide a minimum of five days advance notice to the Regional Administrator. The Regional Administrator shall make reasonable efforts to notify representatives of interested members of the public of the meeting, but the inability of any person to attend shall not be cause for postponement of the meeting. Transcripts or written minutes of all such meetings should be prepared by the independent reviewer or overviewer and provided to the NRC in a timely manner.
3. The NRC staff will have direct contact with the independent management reviewer or overviewer, as necessary.
4. All documents submitted to the NRC subject to this Protocol will be placed in the NRC Public Document Rooms (PDR) in Batavia, Ohio, and Washington, D.C., and will be available there for public examination and copying.

After the reports and recommendations prepared under Section IV.B(1)(a) of the Commission's Order have been received by the Regional Administrator

and prior to approval of the recommendations, a meeting, open to public observation, will be held in Cincinnati to discuss the findings and recommendations. A transcript of the meeting will be prepared by the NRC and placed in the PDR.

COMMUNICATIONS BETWEEN AND AMONG CG&E, BECHTEL, AND AN
INDEPENDENT OVERVIEW ORGANIZATION

Section IV.B(1)(a) of the Commission's November 12, 1982 Order requires that Bechtel's recommendations and all exchanges of correspondence, including drafts, between Bechtel and CG&E be submitted to the Regional Administrator at the same time as they are submitted to the licensee. Since the Regional Administrator has additionally required CG&E to propose an independent overview organization, the above requirements will also apply to that organization. In order to ensure the "arms length" relationship between CG&E, Bechtel and the independent overview organization intended by the above requirement, while at the same time not unduly restricting the ability of all to complete their jobs, the following protocol shall be adhered to with respect to communications between and among CG&E, Bechtel, and the independent overviewer. We recognize that communications have already occurred between CG&E and Bechtel. Any of these communications that provide a basis for Bechtel's conclusions and recommendations should be summarized and retained as described below.

1. Bechtel and the independent overview organization have a clear need for prompt, candid access to whatever information they require to fulfill their role as described in the Commission's November 12, 1982 Order and in the cover letter to this protocol. To this end, Bechtel and the independent overview organization may meet with and interview individuals, conduct telephone conversations, or visit the site to obtain information without prior notification of the NRC. These contacts shall, however,

be documented and such documentation shall be maintained in a location accessible for NRC examination. To the extent that any individual contacted or interviewed requests that his name not be revealed, that information need not be included in the documentation.

2. If Bechtel or the independent overviewer wishes to provide an interim report to CG&E or to discuss its findings or conclusions with CG&E in advance of completing its report, such communication shall be in a meeting open to public observation. In this regard, CG&E shall provide a minimum of five days advance notice to the Regional Administrator. The Regional Administrator shall make reasonable efforts to notify representatives of interested members of the public of the meeting, but the inability of any person to attend shall not be cause for postponement of the meeting. Transcripts or written minutes of all such meetings should be prepared by Bechtel or the independent overviewer and provided to the NRC in a timely manner.
3. The NRC staff will have direct contact with Bechtel or the independent overviewer, as necessary.
4. All documents submitted to the NRC subject to this Protocol will be placed in the NRC Public Document Rooms (PDR) in Batavia, Ohio, and Washington, D.C., and will be available there for public examination and copying.

After the reports and recommendations prepared under Section IV.B(1)(a) of the Commission's Order have been received by the Regional Administrator

and prior to approval of the recommendations, a meeting, open to public observation, will be held in Cincinnati to discuss the findings and recommendations. A transcript of the meeting will be prepared by the NRC and placed in the PDR.

Staff Evaluation of Cincinnati Gas & Electric Co.
Proposal to Conduct the Review of the Management
of the Zimmer Project in Accordance with Section
IV.B(1)(a) of the Commission's November 12, 1982 Order

I. Purpose

The purpose of this document is to provide an evaluation of the Cincinnati Gas and Electric Company (CG&E) response to the Commission's November 12, 1982 Order, Section IV.B(1)(a). The Order requires an independent review of the management of the Zimmer Project, including management of the quality assurance and quality verification programs. Specifically:

"Accordingly, pursuant to sections 103, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, IT IS HEREBY ORDERED THAT: ...

- B. The licensee shall show cause why safety-related construction activities, including reworking activities, should not remain suspended until the licensee:
- (1) Has obtained an independent review of its management of the Zimmer project, including its quality assurance program and its quality verification program, to determine measures needed to ensure that construction of the Zimmer plant can be completed in conformance with the Commission's regulations and construction permit.
 - (a) The independent organization conducting this review shall be knowledgeable in QA/QC matters and nuclear plant construction and shall be acceptable to the Regional Administrator. The independent organization shall make recommendations to the licensee regarding

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necessary steps to ensure that the construction of the facility can be completed in conformance with the Commission's regulations and the construction permit. A copy of the independent organization's recommendations and all exchanges or correspondence, including drafts, between the independent organization and CG&E shall be submitted to the Regional Administrator at the same time as they are submitted to the licensee. In making recommendations, the independent organization shall consider at a minimum the following alternatives for management of the Zimmer project and shall weigh the advantages and disadvantages of each alternative:

1. Strengthening the present CG&E organization.
2. Creation of an organizational structure where the construction management of the project is conducted by an experienced outside organization reporting to the chief executive officer of CG&E.
3. Creation of an organizational structure where the quality assurance program is conducted by an experienced outside organization reporting to the chief executive officer of CG&E.
4. Creation of an organizational structure with both quality assurance and construction project management conducted by an experienced outside organization reporting to the chief executive officer of CG&E...."

CG&E's response to the Commission's November 12, 1982 Order is contained in correspondence dated November 26, 1982 and January 3, 1983, to Mr. James G. Keppler.

Although CG&E requested approval for Bechtel to conduct reviews of both Sections IV.B(1) and IV.B.(2) of the Order, this evaluation is limited to Section IV.B(1)(a) of the Order.

II. Selection of Independent Reviewer

CG&E has proposed that Bechtel Power Corporation perform both the management review under Section IV.B(1)(a) and the verification of the quality of construction and the preparation of a comprehensive plan for the continuation of construction under Section IV.B(2) of the Order. Additionally, CG&E intends to use Bechtel as "a joint manager with CG&E (licensee) of the project until its successful completion." Letter from W. H. Dickhoner, President of CG&E, to NRC Commissioners, dated November 10, 1982, at 2. The NRC staff has considered CG&E submittals of November 26, 1982 and January 3, 1983, the written comments on the November 26 submittal provided by over one hundred members of the public (organizations and individuals), the clarification of submitted comments, and comments received at a public meeting held in Cincinnati on January 5, 1983.

In considering CG&E's proposal, ~~the Commission has directed~~ the staff ^{has} ~~to use~~ as guidance the letter of February 2, 1982 from Chairman Palladino to Congressmen Ottinger and Dingell, which sets forth the "competence" and "independence" standards that have been applied by the Commission in determining the acceptability of proposed third-party reviewers.

The staff has considered the ^{qualifications} ~~competence~~ of both the Bechtel organization and the individuals proposed as team members to conduct the independent review of CG&E's management of the Zimmer project. Inputs to this review included the information supplied in CG&E's submittal, the staff's existing

knowledge of Bechtel's performance at other nuclear power plants, and ^{information from} ~~comment~~ members of the public as to Bechtel's competence.

We have considered comments that problems encountered by Bechtel at identified nuclear construction sites (e.g., Midland) demonstrate that Bechtel is not qualified to perform the Zimmer management review. The staff has reviewed Bechtel's overall performance in nuclear projects and has concluded that Bechtel is qualified to perform the Zimmer management review. We conclude that Bechtel has proposed a process for review of the findings of the Zimmer team which will bring to bear the full expertise which Bechtel has to offer. Bechtel has stated that the Zimmer team will operate independently of the functional management in the Ann Arbor Power Division (AAPD), that the team's findings will be critiqued by the AAPD functional management, and that the team's report will also be reviewed by Bechtel Power Management, which works independently of the Divisions and reports directly to the President of the Bechtel Power Corporation.

CG&E's November 26, 1982 letter documents specific experience of the proposed Bechtel staff to be assigned to this project. The staff has reviewed the qualifications of, and has made inquiries ^{regarding} ~~on~~ those persons proposed by Bechtel to be assigned to work on the Zimmer management review team. Additionally, certain of the individuals to be assigned to this review have significant experience through involvement on other projects.

Based upon its review, the staff concluded that Bechtel has assigned top quality personnel to the review team. ✓ Their knowledge and experience in technical disciplines and in project management demonstrate their competence to conduct the management review at Zimmer.

In view of our findings with respect to the competence of Bechtel as an organization and the competence of the individual review team members, we conclude that Bechtel meets the ^{staff's technical} competence standard ~~set forth in the Ottinger/Dingell letter.~~

The staff also believes that

~~The Ottinger/Dingell letter also specifies that~~ an acceptable organization to conduct a verification program must also be independent of the ^{utility} ~~licensee~~ of the plant under review. Independence is defined as being the ability "...to provide an objective, dispassionate technical judgment, provided solely on the basis of technical merit" P. 1 of Responses to Questions, attached to Ottinger/Dingell letter. The Commission further defined the term by stating that the company approved to conduct an independent review must be one "... not previously involved with the activities... that they will now be reviewing...." Id.

The staff has considered the information provided ^{regarding Bechtel} ~~by CG&E and Bechtel~~ ^{in the Zimmer project} ~~as to~~ Bechtel's role ^Λ and the comments offered by members of the public on the question of independence. A number of comments noted that Bechtel was contacted by CG&E approximately one week prior to the issuance of

the November 12, 1982 Order regarding assistant ^{CE} it could provide in completion of the Zimmer facility. ~~Contrary to these comments~~, we do not believe that ^{this type of limited contact} ~~Bechtel's prior involvement~~ with CG&E or the Zimmer project would disqualify ^{Bechtel} ~~it~~ from conducting a review of CG&E's management.

~~Although the issue was not presented at Diablo Canyon,~~ We also believe, however, that it is necessary to consider whether CG&E's intention to use Bechtel as a joint manager for completion of the facility and for purposes of assistance in meeting the requirements of Section IV.B(2) of the Order compromises Bechtel's independency. ^{to perform the management review function} The staff, ~~however,~~ ^{Bechtel to conduct an objective review of CG&E's management, the staff believes that} ~~has no reason to question Bechtel's integrity, and, therefore, their~~ ^{a separate third party should be retained} ~~ability to provide an "objective, dispassionate" judgment on CG&E's~~ ~~management.~~

~~Upon a balancing of all of these factors,~~ the staff believes that Bechtel ~~meets the Commission's competence and independence criteria.~~ The staff ~~believes that because the proposed subsequent role of Bechtel could exert~~ ~~some pressures upon it,~~ a separate third party should be retained to conduct an overview of Bechtel's review and conclusions under Section IV.B(1)(a) and CG&E's recommendation under Section IV. B(1)(b) of the Order. ^{This is required} ~~that~~ ^{because the proposed subsequent role of B could adversely affect their} ~~third party must be acceptable to the Regional Administrator and should be~~ ^{This} a recognized management ~~analysis~~ consultant which meets the ~~Commission's~~ ^{State} independence standards and does not have any present expectation that it will perform additional services for CG&E under the Commission Order. In

independent review.

this manner, CG&E will have the benefit of Bechtel's expert advice of its management of the Zimmer facility and the NRC will be further assured that the proposed relationship between Bechtel and CG&E does not compromise the recommendations made by CG&E under Section IV.B(1)(b) of the Order.

III. Review Program

Bechtel's proposed outline and scope for their management review of Zimmer was submitted to the NRC with CG&E's November 26, 1982 response. The staff has reviewed this outline and scope and finds it acceptable. Some remaining details, however, need to be clarified. To resolve the Staff's detailed questions, a meeting, open to the public, should be held to obtain additional information from CG&E and Bechtel regarding details associated with Bechtel's proposed plan of action.

IV. Summary and Conclusion

Based on the Staff's review of the documentation submitted by CG&E and the verbal and written comments of members of the public, we conclude that Bechtel meets the ^{Staff's} ~~Commission's~~ independence and competence criteria for third party reviewers. However, since a significant amount of concern has been raised regarding the planned dual role of Bechtel, the Staff believes that an independent overview of Bechtel's review and conclusions and CG&E's recommendations is required.

Staff Evaluation of Cincinnati Gas & Electric Co.
Proposal to Conduct the Review of the Management
of the Zimmer Project in Accordance with Section
IV.B(1)(a) of the Commission's November 12, 1982 Order

I. Purpose

The purpose of this document is to provide an evaluation of Cincinnati Gas and Electric Company's (CG&E) responses to the Commission's November 12, 1982 Order, Section IV.B(1)(a). The Order requires an independent review of the management of the Zimmer Project, including management of the quality assurance and quality verification programs. Specifically:

"Accordingly, pursuant to sections 103, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, IT IS HEREBY ORDERED THAT: ...

B. The licensee shall show cause why safety-related construction activities, including reworking activities, should not remain suspended until the licensee:

(1) Has obtained an independent review of its management of the Zimmer project, including its quality assurance program and its quality verification program, to determine measures needed to ensure that construction of the Zimmer plant can be completed in conformance with the Commission's regulations and construction permit.

(a) The independent organization conducting this review shall be knowledgeable in QA/QC matters and nuclear plant construction and shall be acceptable to the Regional Administrator. The independent organization shall make recommendations to the licensee regarding

necessary steps to ensure that the construction of the facility can be completed in conformance with the Commission's regulations and the construction permit. A copy of the independent organization's recommendations and all exchanges or correspondence, including drafts, between the independent organization and CG&E shall be submitted to the Regional Administrator at the same time as they are submitted to the licensee. In making recommendations, the independent organization shall consider at a minimum the following alternatives for management of the Zimmer project and shall weight the advantages and disadvantages of each alternative:

1. Strengthening the present CG&E organization.
2. Creation of an organizational structure where the construction management of the project is conducted by an experienced outside organization reporting to the chief executive officer of CG&E.
3. Creation of an organizational structure where the quality assurance program is conducted by an experienced outside organization reporting to the chief executive officer of CG&E
4. Creation of an organizational structure with both quality assurance and construction project management conducted by an experienced outside organization reporting to the chief executive officer of CG&E...."

CG&E's response to the Commission's November 12, 1982 Order is contained in correspondence dated November 26, 1982, to Mr. James G. Keppler and supplemented in correspondence dated January 3, 1983.

Although CG&E requested approval for Bechtel to conduct reviews of both Sections IV.B(1) and IV.B.(2) of the Order, this evaluation is limited to Section IV.B(1)(a) of the Order.

II. Selection of Independent Reviewer

CG&E's selection of Bechtel (Ann Arbor, Michigan) to perform the management reviews as described in Section IV.B(1)(a) of the Commission's November 12, 1982 Order has caused discussion among the Staff and others with regard to the degree of independence that exists between Bechtel and CG&E. As described in CG&E's January 3, 1983 letter and in previous correspondence (November 26, 1982 letter CG&E to NRC), several alternative firms were considered by CG&E prior to the selection of Bechtel. Their technical expertise and broad experience within the nuclear industry clearly demonstrates that Bechtel is technically competent to perform the management review of the Zimmer project. We have reviewed CG&E's November 26, 1982 letter, which documents specific experience of the proposed Bechtel staff. We believe that this specific staff is acceptable; and we would expect that this staff remain on the team. Should Bechtel or CG&E propose to change team members the Regional Administrator must be informed.

The Staff has reviewed the qualifications to those persons proposed by Bechtel to be assigned to work on the Zimmer management review team both technically and from the standpoint of management experience. Certain of the individuals to be assigned to this review are known to the Staff through involvement on other projects. The knowledge and experience gained from association with these other projects should be valuable assets to the review team.

We conclude that Bechtel is qualified to perform the management review of the Zimmer project as required by Section IV.B(1)(a) of the Commission's November 12, 1982 Order.

Bechtel's involvement prior to the issuance of the Commission's November 12, 1982 Order and their known subsequent involvement following the management review specified in Section IV.B(a)(a) of the Order raises a new issue with regard to complete independence. We do not question the integrity of Bechtel in this regard and acknowledge the experience/expertise they can provide, but we are persuaded that the independence issue is important in the ultimate effort in assuring that the Zimmer project is completed properly. As such, the appearance of lack of independence must be considered as well as obvious lack of independence. For this reason, the staff concludes that a third-party management review is necessary to review the manner in which Bechtel conducts its program and to overview the conclusions and recommendations submitted to us by CG&E.

III. Review Program

Bechtel's proposed outline and scope for their management review of Zimmer was submitted to the NRC with CG&E's November 26, 1982 response. The program consists of six primary elements as follows:

- A. Management Review of Project Organization and Status of Job.

- B. Assemble Review Team
- C. Survey and Review of the Project
- D. Survey and Review Process
- E. Key People To Be Interviewed
- F. Recommendation and Report

The Staff has reviewed Bechtel's proposed outline. In general, we believe that the overall proposed program should be adequate to assess CG&E's management of the Zimmer project.

From the Staff's review of Section C of Bechtel's program review, "Survey and Review of the Project," some remaining details need to be clarified. In particular, the Staff desires more information as to how the reviews will be conducted and how deficiencies will be reported. The Staff also wishes additional detail to help understand the proposed scope and depth of Bechtel's review of documents and records which could provide assurance of quality of the structures and components at Zimmer. To resolve the Staff's detailed questions, a meeting, open to the public, will be held by the NRC to obtain additional information from CG&E and Bechtel regarding details associated with Bechtel's proposed plan of action.

IV. Summary and Conclusion

Based on the Staff's review of the documentation submitted by CG&E and other interested parties, and based on our assessment of the discussions during our January 5, 1983 meeting, we conclude that there is no objective basis for questioning Bechtel's independence and that Bechtel is technically qualified; however, since a significant amount of concern has been raised, both from within the staff and from members of the public, the Staff believes that an independent third party overview of Bechtel's review and conclusions is needed. The overall management review program as outlined by Bechtel is acceptable assuming the attached protocol for maintaining communication among all parties is followed. The Staff does have some clarifying questions pertaining to Bechtel's proposed review plan which we believe could best be addressed in a meeting which we suggest be held in the near future.

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Staff Evaluation of Cincinnati Gas & Electric Co.
Proposal to Conduct the Review of the Management
of the Zimmer Project in Accordance with Section
IV.B(1)(a) of the Commission's November 12, 1982 Order

I. Purpose

The purpose of this document is to provide an evaluation of Cincinnati Gas and Electric Company's (CG&E) response to the Commission's November 12, 1982 Order, Section IV.B(1)(a). The Order requires an independent review of the management of the Zimmer Project, including management of the quality assurance and quality verification programs. Specifically:

"Accordingly, pursuant to sections 103, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, IT IS HEREBY ORDERED THAT: ...

B. The licensee shall show cause why safety-related construction activities, including reworking activities, should not remain suspended until the licensee:

(1) Has obtained an independent review of its management of

the Zimmer project, including its quality assurance program and its quality verification program, to determine measures needed to ensure that construction of the Zimmer plant can be completed in conformance with the Commission's regulations and construction permit.

- (a) The independent organization conducting this review shall be knowledgeable in QA/QC matters and nuclear plant construction and shall be acceptable to the Regional Administrator. The independent organization shall make recommendations to the licensee regarding necessary steps to ensure that the construction of the facility can be completed in conformance with the Commission's regulations and the construction permit. A copy of the independent organization's recommendations and all exchanges or correspondence, including drafts, between the independent organization and CG&E shall be submitted to the Regional Administrator at the same time as they are submitted to the licensee. In making recommendations, the independent organization shall consider at a minimum the following alternatives for management of the Zimmer project and shall weight the advantages and disadvantages of each alternative:

1. Strengthening the present CG&E organization.

- 3
2. Creation of an organizational structure where the construction management of the project is conducted by an experienced outside organization reporting to the chief executive officer of CG&E.
 3. Creation of an organizational structure where the quality assurance program is conducted by an experienced outside organization reporting to the chief executive officer of CG&E
 4. Creation of an organizational structure with both quality assurance and construction project management conducted by an experienced outside organization reporting to the chief executive officer of CG&E...."

CG&E's response to the Commission's November 12, 1982 Order is contained in correspondence dated November 26, 1982, to Mr. James G. Keppler and supplemented in correspondence dated January 3, 1983.

Although CG&E requested approval for Bechtel to conduct reviews of both Sections IV.B(1) and IV.B.(2) of the Order, this evaluation is limited to Section IV.B(1)(a) of the Order.

II. Selection of Independent Reviewer

CG&E's selection of Bechtel (Ann Arbor, Michigan) to perform the management reviews as described in Section IV.B(1)(a) of the Commission's November 12, 1982 Order has caused discussion among the Staff and others with regard to the degree of independence that exists between Bechtel and CG&E. As described in CG&E's January 3, 1983 letter and in previous correspondence (November 26, 1982 letter CG&E to NRC), several alternative firms were considered by CG&E prior to the selection of Bechtel.

The technical expertise and broad experience within the nuclear industry clearly demonstrates that Bechtel is technically competent to perform the management review of the Zimmer project.

The Staff has reviewed the qualifications to those persons proposed by Bechtel to be assigned to work on the Zimmer management review team from a technical expertise viewpoint and from the standpoint of management experience. Certain of the individuals to be assigned to this review are known to the Staff through involvement on other projects. The knowledge and experience gained from association with these other projects should be valuable assets to the review team.

We conclude that Bechtel is qualified to perform the management review of the Zimmer project as required by Section IV.B(1)(a) of the Commission's November 12, 1982 Order and meets the guidelines for independence listed in the Chairman's February 1, 1982 letter to Congressmen Dingell and Ottinger. However, Bechtel's

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involvement prior to the issuance of the Commission's November 12, 1982 Order and their known subsequent involvement following the management review specified in Section IV.B(a)(a) of the Order raises a new issue with regard to complete independence. For this reason, the staff concludes that a third-party management review is necessary to review the manner in which Bechtel has conducted its program and to overview the conclusions and recommendations submitted to us by CG&E.

We do not question the integrity of Bechtel in this regard and acknowledge the experience/expertise they can provide, we are persuaded that the independence issue is important in the ultimate effort in assuring that the Zimmer project is completed properly. As such, the appearance of lack of independence must be considered as well as obvious lack of independence.

III. Review Program

Bechtel's proposed outline and scope for their management review of Zimmer was submitted to the NRC with CG&E's November 26, 1982 response. The program consists of six primary elements as follows:

- A. Management Review of Project Organization and Status of Job.
- B. Assemble Review Team
- C. Survey and Review of the Project

6

D. Survey and Review Process

E. Key People To Be Interviewed

F. Recommendation and Report

The Staff has reviewed Bechtel's proposed outline. In general, we believe that the overall proposed program should be adequate to assess CG&E's management of the Zimmer project. As stated in Section II of this evaluation, the Staff has performed a review of the qualifications of the persons identified by Bechtel as potential Review Team members. Based on our review, which included discussions with both referenced individuals and "developed" leads, the Staff believes that the proposed Bechtel Review Team is adequate to perform their assigned functions.

From the Staff's review of Section C of Bechtel's proposed review, Survey and Review of the Project, some remaining details need to be clarified. In particular, the Staff desires more information as to how the reviews will be conducted and how deficiencies will be reported. One of the more important areas that the Staff believes should be addressed in additional detail deals with the flow-of-paper. Specifically, additional information is needed to understand the proposed scope and depth of Bechtel's review of documents and records which could provide assurance of quality of the structures and components at Zimmer. To resolve the

Staff's detailed questions, a meeting, open to the public, will held by the NRC to obtain additional information from CG&E and Bechtel regarding details associated with Bechtel's proposed plan of action.

IV. Summary and Conclusion

Based on the Staff's review of the documentation submitted by CG&E and other interested parties, and based on our assessment of the discussions during our January 5, 1983 meeting, we conclude that Bechtel is technically qualified and has, in reality, sufficient independence from CG&E to conduct the management review; however, since a significant amount of concern has been raised, the Staff believes that an independent third party overview of Bechtel's review and conclusions is needed. The overall management review program as outlined by Bechtel is acceptable assuming the attached protocol for maintaining communication among all parties is followed. The Staff does have some clarifying questions pertaining to Bechtel's proposed review plan which we believe could best be addressed in a meeting which we suggest be held in the near future.

The Regional Administrator conditionally approves Bechtel to perform the Management review required by Section IV.B(1)(a) of the Commission's November 12, 1982 Order.

Bob

1/7/83

Staff Evaluation of Cincinnati Gas & Electric Co.
Proposal to Conduct the Review of the Management
of the Zimmer Project in Accordance with Section
IV:B(1)(a) of the Commission's November 12, 1982 Order

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I. Purpose

The purpose of this document is to provide an evaluation of Cincinnati Gas and Electric Company's (CG&E) responses to the Commission's November 12, 1982 Order, Section IV.B(1)(a). The Order requires an independent review of the management of the Zimmer Project, including management of the quality assurance and quality verification programs. Specifically:

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"Accordingly, pursuant to sections 103, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, IT IS HEREBY ORDERED THAT: ...

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 - (1) Has obtained an independent review of its management of the Zimmer project, including its quality assurance program and its quality verification program, to determine measures needed to ensure that construction of the Zimmer plant can be completed in conformance with the Commission's regulations and construction permit.
 - (a) The independent organization conducting this review shall be knowledgeable in QA/QC matters and nuclear plant construction and shall be acceptable to the Regional Administrator. The independent organization shall make recommendations to the licensee regarding

necessary steps to ensure that the construction of the facility can be completed in conformance with the Commission's regulations and the construction permit. A copy of the independent organization's recommendations and all exchanges or correspondence, including drafts, between the independent organization and CG&E shall be submitted to the Regional Administrator at the same time as they are submitted to the licensee. In making recommendations, the independent organization shall consider at a minimum the following alternatives for management of the Zimmer project and shall weight the advantages and disadvantages of each alternative:

1. Strengthening the present CG&E organization.
2. Creation of an organizational structure where the construction management of the project is conducted by an experienced outside organization reporting to the chief executive officer of CG&E.
3. Creation of an organizational structure where the quality assurance program is conducted by an experienced outside organization reporting to the chief executive officer of CG&E.
4. Creation of an organizational structure with both quality assurance and construction project management conducted by an experienced outside organization reporting to the chief executive officer of CG&E...."

CG&E's response to the Commission's November 12, 1982 Order is contained in correspondence dated November 26, 1982, ^{and January 5, 1983} to Mr. James G. Keppler ~~and is~~ supplemented in correspondence dated January 3, 1983:

- Although CG&E requested approval for Bechtel to conduct reviews of both
- Sections IV.B(1) and IV.B.(2) of the Order, this evaluation is limited to Section IV.B(1)(a) of the Order.

II. Selection of Independent Reviewer

CG&E has proposed that Bechtel Power Corporation perform both the management review under Section IV.B(1)(a) and the verification of the quality of construction and the preparation of a comprehensive plan for the continuation of construction under Section IV.B(2) of the Order. Additionally, CG&E intends to use Bechtel as ^{one space} a joint manager with CG&E (^{no space} licensee) of the project until its successful completion." Letter from W. H. Dickhoner, President of CG&E, to NRC Commissioners, dated November 10, 1982, at 2. The NRC staff has considered CG&E submittals of November 26, 1982 and January 3, 1983, the written comments on the November 26 submittal provided by over one hundred members of the public (organizations and individuals), ~~and~~ the clarification of submitted comments, and ~~provision of further~~ ^{received public} comments at a meeting held in Cincinnati on January 5, 1983. In considering CG&E's proposal, the staff has used as guidance the letter of February 2, 1982, from Chairman ^a Palladino to Congressman ^e Ottinger ^{one space} and Dingell, which sets forth the "competence" and "independence" standards that ~~will be~~ ^{here} applied by the Commission in ^{determining} ~~passing upon~~ the acceptability of proposed ^{third-party reviewers.} ~~organizations to conduct independent verification programs with respect to reactor licensees.~~

The staff has considered the competence of both the Bechtel organization and the individuals proposed as team members to conduct the independent review of CG&E's management of the Zimmer project. Inputs to this review

included the information supplied in CG&E's submittal, ~~and~~ the staff's existing knowledge of Bechtel's performance at other nuclear power plants, ~~the staff also considered the~~ ^{and} comments ^{by} of members of the public as to Bechtel's competence. ^① On the basis of this review, the staff is confident that Bechtel ~~is~~ ^{and the project team members are} competent to conduct the review of CG&E's performance as managing licensee for the construction of the Zimmer Station.

o.k. → We have considered ~~the~~ argument of certain commenters that problems encountered by Bechtel at ~~certain~~ ^{identified} nuclear construction sites ~~(e.g., Midland)~~ ^(e.g., Midland) demonstrate that Bechtel is not qualified to perform the Zimmer management review. ^{The staff has} We believe that these commenters have focussed upon Bechtel nuclear projects which they believe support their point to the exclusion of a larger number of nuclear projects where Bechtel has performed well. Additionally, ~~we~~ conclude that Bechtel has proposed a process for review of the findings of the Zimmer team which will bring to bear the full expertise which Bechtel has to offer. Bechtel has stated that the Zimmer team will operate independently of the functional management in the Ann Arbor Power Division (AAPD), that the team's findings will be critiqued by the AAPD functional management and that the team's report will also be reviewed by Bechtel Power Management, which works independently of the Divisions and reports directly to the President of the Bechtel Power Corporation. ←

CG&E's November 26, 1982 letter documents specific experience of the proposed Bechtel staff to be assigned to this project. The staff has reviewed the qualifications² of, and has made inquiries on, those persons proposed by Bechtel to be assigned to work on the Zimmer management review team. ^① Additionally, certain of the individuals to be assigned to this review ~~were already known to the Staff~~ ^{have significant experience} through involvement on other projects. Based upon its review, the staff ~~had~~ ^{to} concluded that Bechtel has assigned top quality personnel¹ to the review team. Their knowledge and experience in technical disciplines and in project management demonstrate their competence to conduct the management review at Zimmer.

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In view of our findings with respect to ^{the} both Bechtel's ^{of a} competence ^{as} as an organization and the competence of the individual review team members, we conclude that Bechtel meets the competence standard set forth in the Ottinger/Dingell letter.

ability

The Ottinger/Dingell letter also specifies that an acceptable organization to conduct a verification program must also be independent of the licensee of the plant under review. Independence is defined as being ^{the} "... ~~and~~ to provide an objective, dispassionate technical judgment, provided solely on the basis of technical merit" P. 1 of Responses to Questions, attached to Ottinger/Dingell letter. The Commission further defined the term by stating that the company approved to conduct an independent review must be one "... not previously involved with the activities... that they will now be reviewing...." ^① Id. Although the Dingell/Ottinger letter was addressing the qualifications of an

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organization to conduct an independent design verification program (at Diablo Canyon), the staff believes that the standards are equally as appropriate for an independent review of management.

The staff has considered the information provided by CG&E and Bechtel as to ~~the~~ role ~~which~~ Bechtel ^{is} intended ^{to} play and the comments offered by members of the public on the question of independence.

Contrary to ~~the arguments~~ put forward by a number of comment^{ERS}s, we

do not believe that Bechtel ~~has had~~ the type of prior involvement ~~with~~ CG&E or the Zimmer project ~~that~~ would disqualify it ^A ~~from~~ ^{FROM} conducting

a review of CG&E's management. The fact that Bechtel ~~is~~ ^{WAS} contacted by ^{CG&E}

regarding assistance it could provide in completion of the Zimmer

facility approximately one week prior to the issuance of the November 12,

1982 Order, ^{h25} does not mean that Bechtel would be reviewing any work it

had conducted at Zimmer. ^{SP} Although the issue was not presented at

Diablo Canyon, we also believe, however, that it is necessary to

consider whether CG&E's intention to use Bechtel as a joint manager

for completion of the facility and for purposes of assistance in

meeting the requirements of Section IV.B(2) of the Order compromises

Bechtel's independence.

One cannot conclude from ~~the fact of~~ Bechtel's proposed subsequent roles, that it would be unable to provide an "objective, dispassionate" judgment on CG&E's management. Although one can argue that Bechtel might "pull its punches" in order not to antagonize CG&E, it is also

we conclude Bechtel meets the independence criteria.

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possible that Bechtel might have a monetary incentive to uncover as many problems as it could find at the site (i.e., if Bechtel and CG&E entered into a "cost plus" contract for completion of the facility.)¹ Whatever the potential incentives to Bechtel from acting in one manner or the other, the staff has no basis to question Bechtel's integrity.²

Upon balancing of all of these factors, the staff believes that Bechtel meets the Commission's competence and independence criteria.

³ The staff believes, however, that because the proposed subsequent role of Bechtel could exert some pressures upon it, a separate third party should be retained to conduct an overview of Bechtel's review and conclusions under Section IV.B(1)(a) and CG&E's recommendation under Section IV.B(1)(b) of the Order. ^{for one space} As stated in the covering letter, this third party must be acceptable to the Regional Administrator and should be ^a recognized management analysis consultant which meets the Commission's independence standards and does not have any present expectation that it will perform additional services for CG&E under the Commission Order. In this manner, CG&E will have the benefit of Bechtel's expert advice of its management of the Zimmer facility and the NRC will be further assured that the proposed relationship between Bechtel and CG&E does not compromise the recommendations made by CG&E under Section IV.B(1)(b) of the Order.

III. Review Program

Bechtel's proposed outline and scope for their management review of Zimmer was submitted to the NRC with CG&E's November 26, 1982 response. The program consists of six primary elements as follows:

- ~~A. Management Review of Project Organization and Status of Job:~~
- ~~B. Assemble Review Team~~
- ~~C. Survey and Review of the Project~~
- ~~D. Survey and Review Process~~
- ~~E. Key People to be Interviewed:~~
- ~~F. Recommendation and Report~~

The Staff has reviewed Bechtel's ^{outline of it} proposed ^{management review} ~~outline~~ ^{and finds it acceptable.} In general, we believe that the ~~overall proposed program should be adequate to~~ ^{proposal outlines an effective program} ~~to~~ assess CG&E's management of the Zimmer project.

~~From the Staff's review of Section 6 of Bechtel's program review, "Survey and Review of the Project,"~~ Some remaining details need to be clarified. ~~In particular,~~ the Staff desires more information as to ~~how the reviews will be conducted and how deficiencies will be reported.~~ The Staff also wishes additional detail to help understand the proposed scope and depth of Bechtel's review of documents

and records which could provide assurance of quality of the structures and components at Zimmer. To resolve the Staff's detailed questions, a meeting, open to the public, ^{should} will be held by the NRC to obtain additional information from CG&E and Bechtel regarding details associated with Bechtel's proposed plan of action.

IV. Summary and Conclusion

Based on ^{verbal} the Staff's review of the documentation submitted by ~~the written comments of members of the public, and the~~ CG&E and other interested parties, ~~and based on our assessment of~~ ^{clarification of submitted comments and provision of additional comments} ~~the discussions during our January 5, 1983 meeting, we conclude that~~ ^{meets the Commission's} ~~there is no objective basis for questioning Bechtel's independence~~ ^{competence criteria for third party reviewers.} ~~and that Bechtel is technically qualified. However, since a significant amount of concern has been raised, both from within the staff and from members of the public regarding the planned dual role of Bechtel, the Staff believes that an independence ⁺ third party overview of Bechtel's review and conclusions and CG&E's recommendations is needed. The overall management review program as outlined by Bechtel is acceptable, assuming the attached protocol for maintaining communication among all parties is followed. ~~The Staff does have some clarifying questions pertaining to Bechtel's proposed review plan which we believe could best be addressed in a meeting which we suggest be held in the near future.~~~~

not discussed previously

1/18/83

Staff Evaluation of Cincinnati Gas & Electric Co.
Proposal to Conduct the Review of the Management
of the Zimmer Project in Accordance with Section
IV.B(1)(a) of the Commission's November 12, 1982 Order

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I. Purpose

The purpose of this document is to provide an evaluation of Cincinnati Gas and Electric Company's (CG&E) responses to the Commission's November 12, 1982 Order, Section IV.B(1)(a). The Order requires an independent review of the management of the Zimmer Project, including management of the quality assurance and quality verification programs. Specifically:

"Accordingly, pursuant to sections 103, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, IT IS HEREBY ORDERED THAT: ...

- B. The licensee shall show cause why safety-related construction activities, including reworking activities, should not remain suspended until the licensee:
 - (1) Has obtained an independent review of its management of the Zimmer project, including its quality assurance program and its quality verification program, to determine measures needed to ensure that construction of the Zimmer plant can be completed in conformance with the Commission's regulations and construction permit.
 - (a) The independent organization conducting this review shall be knowledgeable in QA/QC matters and nuclear plant construction and shall be acceptable to the Regional Administrator. The independent-organization shall make recommendations to the licensee regarding

necessary steps to ensure that the construction of the facility can be completed in conformance with the Commission's regulations and the construction permit. A copy of the independent organization's recommendations and all exchanges or correspondence, including drafts, between the independent organization and CG&E shall be submitted to the Regional Administrator at the same time as they are submitted to the licensee. In making recommendations, the independent organization shall consider at a minimum the following alternatives for management of the Zimmer project and shall weight the advantages and disadvantages of each alternative:

1. Strengthening the present CG&E organization.
2. Creation of an organizational structure where the construction management of the project is conducted by an experienced outside organization reporting to the chief executive officer of CG&E.
3. Creation of an organizational structure where the quality assurance program is conducted by an experienced outside organization reporting to the chief executive officer of CG&E.
4. Creation of an organizational structure with both quality assurance and construction project management conducted by an experienced outside organization reporting to the chief executive officer of CG&E...."

CG&E's response to the Commission's November 12, 1982 Order is contained in correspondence dated November 26, 1982, to Mr. James G. Keppler and supplemented in correspondence dated January 3, 1983.

Although CG&E requested approval for Bechtel to conduct reviews of both Sections IV.B(1) and IV.B.(2) of the Order, this evaluation is limited to Section IV.B(1)(a) of the Order.

II. Selection of Independent Reviewer

CG&E has proposed that Bechtel Power Corporation perform both the management review under Section IV.B(1)(a) and the verification of the quality of construction under Section IV.B(2) of the Commission's November 12, 1982 Order. As described in CG&E's January 3, 1983 letter and in previous correspondence (November 26, 1982 letter CG&E to NRC), several alternative firms were considered by CG&E prior to the selection of Bechtel. Their technical expertise and broad experience as a company within the nuclear industry clearly demonstrates that Bechtel corporate management is competent to manage and overview the report on the review of the Zimmer project as required by Section IV.B(1)(a) of the Commission's November 12, 1982 Order. CG&E's November 26, 1982 letter documents specific experience of the proposed Bechtel staff to be assigned to this project. The Staff has reviewed the qualifications of and has made inquiries on those persons proposed by Bechtel to be assigned to work on the Zimmer management review team both technically and from the standpoint of management experience. Certain of the individuals to be assigned to this review are known to the Staff through involvement on other projects. The knowledge and experience gained from association with these other projects should be valuable assets to the review team. We believe that the specific review team is acceptable; and we would expect that the permanent team remain intact. Should Bechtel or CG&E propose to change team members for any reason the Regional Administrator must be informed.

We conclude that Bechtel Corporate Management can provide a thorough overview of this project and that the review team is qualified to perform the management review of the Zimmer project as required by Section IV.B(1)(a) of the Commission's November 12, 1982 Order.

Bechtel's involvement prior to the issuance of the Commission's November 12, 1982 Order and CG&E's proposal that Bechtel through their known subsequent involvement following the management review specified in Section IV.B(1)(a) of the Order in a joint management role raises a new issue with regard to complete independence. We do not question the integrity of Bechtel in this regard and acknowledge the experience/expertise they can provide, but we are persuaded that the independence issue is important in the ultimate effort in assuring that the Zimmer project is completed properly. As such, the appearance of lack of independence must be considered as well as the obvious lack of independence. The Staff concludes that Bechtel meets the specific independence criteria of the Ottinger/Dingall letter and that Bechtel's knowledge and expertise with projects like Zimmer are needed to perform this function. However, Bechtel's proposed dual role raises sufficient concern therefore, the Staff concludes that a third-party management review is necessary to review the manner in which Bechtel conducts its program and to overview the conclusions and recommendations submitted to us by CG&E.

III. Review Program

Bechtel's proposed outline and scope for their management review of Zimmer was submitted to the NRC with CG&E's November 26, 1982 response. The program consists of six primary elements as follows:

- A. Management Review of Project Organization and Status of Job.
- B. Assemble Review Team
- C. Survey and Review of the Project
- D. Survey and Review Process
- E. Key People to be Interviewed.
- F. Recommendation and Report

The Staff has reviewed Bechtel's proposed outline. In general, we believe that the overall proposed program should be adequate to assess CG&E's management of the Zimmer project.

From the Staff's review of Section C of Bechtel's program review, "Survey and Review of the Project," some remaining details need to be clarified. In particular, the Staff desires more information as to how the reviews will be conducted and how deficiencies will be reported. The Staff also wishes additional detail to help understand the proposed scope and depth of Bechtel's review of documents

and records which could provide assurance of quality of the structures and components at Zimmer. To resolve the Staff's detailed questions, a meeting, open to the public, will be held by the NRC to obtain additional information from CG&E and Bechtel regarding details associated with Bechtel's proposed plan of action.

IV. Summary and Conclusion

Based on the Staff's review of the documentation submitted by CG&E and other interested parties, and based on our assessment of the discussions during our January 5, 1983 meeting, we conclude that there is no objective basis for questioning Bechtel's independence and that Bechtel is technically qualified; however, since a significant amount of concern has been raised, both from within the staff and from members of the public regarding the planned dual role of Bechtel, the Staff believes that an independence third party overview of Bechtel's review and conclusions and CG&E's recommendations is needed. The overall management review program as outlined by Bechtel is acceptable assuming the attached protocol for maintaining communication among all parties is followed. The Staff does have some clarifying questions pertaining to Bechtel's proposed review plan which we believe could best be addressed in a meeting which we suggest be held in the near future.

this manner, CG&E will have the benefit of Bechtel's expert advice of its management of the Zimmer facility and the NRC will be further*assured that the proposed relationship between Bechtel and CG&E does not compromise the recommendations made by CG&E under Section IV.B(1)(b) of the Order.

III. Review Program

Bechtel's proposed outline and scope for their management review of Zimmer was submitted to the NRC with CG&E's November 26, 1982 response.

IV. Summary and Conclusion

Based on the Staff's review of the documentation submitted by CG&E and the verbal and written comments of members of the public, we conclude that Bechtel meets the Commission's independence and competence criteria for third party reviewers. However, since a significant amount of concern has been raised regarding the planned dual role of Bechtel, the Staff believes that an independent overview of Bechtel's review and conclusions and CG&E's recommendations is required.

The staff has reviewed this outline and scope and finds it acceptable. Some remaining details, however, need to be clarified. To resolve the Staff's detailed questions, a meeting, open to the public, should be held to obtain additional information from CG&E and Bechtel regarding details associated with Bechtel's proposed plan of action.

Staff Evaluation of Cincinnati Gas & Electric Co.
Proposal to Conduct the Review of the Management
of the Zimmer Project in Accordance with Section
IV.B(1)(a) of the Commission's November 12, 1982 Order

I. Purpose

The purpose of this document is to provide an evaluation of the Cincinnati Gas and Electric Company (CG&E) response to Section IV.B(1)(a) of the Commission's November 12, 1982 Order. The Order requires an independent review of the management of the Zimmer Project, including management of the quality assurance and quality verification programs. Specifically:

"Accordingly, pursuant to sections 103, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, IT IS HEREBY ORDERED THAT: ...

- B. The licensee shall show cause why safety-related construction activities, including reworking activities, should not remain suspended until the licensee:
 - (1) Has obtained an independent review of its management of the Zimmer project, including its quality assurance program and its quality verification program, to determine measures needed to ensure that construction of the Zimmer plant can be completed in conformance with the Commission's regulations and construction permit.
 - (a) The independent organization conducting this review shall be knowledgeable in QA/QC matters and nuclear plant construction and shall be acceptable to the Regional Administrator. The independent organization shall make recommendations to the licensee regarding necessary steps to ensure that the construction of the facility can be completed in conformance with the

Commission's regulations and the construction permit. A copy of the independent organization's recommendations and all exchanges or correspondence, including drafts, between the independent organization and CG&E shall be submitted to the Regional Administrator at the same time as they are submitted to the licensee. In making recommendations, the independent organization shall consider at a minimum the following alternatives for management of the Zimmer project and shall weigh the advantages and disadvantages of each alternative:

1. Strengthening the present CG&E organization.
2. Creation of an organizational structure where the construction management of the project is conducted by an experienced outside organization reporting to the chief executive officer of CG&E.
3. Creation of an organizational structure where the quality assurance program is conducted by an experienced outside organization reporting to the chief executive officer of CG&E.
4. Creation of an organizational structure with both quality assurance and construction project management conducted by an experienced outside organization reporting to the chief executive officer of CG&E...."

CG&E's response to the Commission's November 12, 1982 Order is contained in correspondence dated November 26, 1982 and January 3, 10, and 31, 1983, to Mr. James G. Keppler.

Although CG&E requested approval for Bechtel to conduct reviews of both Sections IV.B(1) and IV.B.(2) of the Order, this evaluation is limited to Section IV.B(1)(a) of the Order.

II. Selection of Independent Reviewer

CG&E has proposed that Bechtel Power Corporation perform both the management review under Section IV.B(1)(a) and the verification of the quality of construction and the preparation of a comprehensive plan for the continuation of construction under Section IV.B(2) of the Order. Additionally, CG&E intends to use Bechtel as "a joint manager with CG&E (licensee) of the project until its successful completion." (Letter from W. H. Dickhoner, President of CG&E, to NRC Commissioners, dated November 10, 1982, page 2.) The NRC staff has considered CG&E submittals of November 26, 1982 and January 3, 10, and 31, 1983, the written comments on the November 26 submittal provided by over one hundred members of the public (organizations and individuals), the clarification of submitted comments, and comments received at a public meeting held in Cincinnati on January 5, 1983 and in subsequent correspondence from the Government Accountability Project (GAP). In considering CG&E's proposal, the Staff has used as guidance the letter of February 2, 1982 from Chairman Palladino to Congressmen Ottinger and Dingell, which sets forth the "competence" and "independence" standards that have been applied by the Commission in determining the acceptability of proposed third-party reviewers.

The Staff has considered the qualifications of both the Bechtel organization and the individuals proposed as team members to conduct the independent review of CG&E's management of the Zimmer project. Inputs to this review included the information supplied in CG&E's submittal, the Staff's existing knowledge of Bechtel's performance at other nuclear power plants and information from members of the public as to Bechtel's competence.

We have considered comments that problems encountered by Bechtel at identified nuclear construction sites (e.g., Midland) demonstrate that Bechtel is not qualified to perform the Zimmer management review. The Staff has ^{considered} ~~reviewed~~ Bechtel's ^{experience} ~~overall performance~~ in nuclear projects and has concluded that Bechtel is qualified to perform the Zimmer management review. We also note that Bechtel has proposed a process for review of the findings of the Zimmer team which will bring to bear the full expertise which Bechtel has to offer. Specifically, Bechtel has stated that the Zimmer team will operate independently of the functional management in the Ann Arbor Power Division (AAPD), that the team's findings will be critiqued by the AAPD functional management and that the team's report will also be reviewed by Bechtel Power Management, which works independently of the Divisions and reports directly to the President of the Bechtel Power Corporation.

and Bechtel's January 1983 letters

CG&E's November 26, 1982 ~~letter~~^{letter} documents specific experience of the proposed Bechtel staff to be assigned to this project. The Staff has reviewed the qualifications of, and has made inquiries regarding those persons proposed by Bechtel to be assigned to work on the Zimmer management review team.

Based upon its review, the Staff concludes that Bechtel has assigned top quality personnel to the review team. A number of the individuals to be assigned to this review have significant experience through involvement on other projects. Their knowledge and experience in technical disciplines and in project management demonstrate their competence to conduct the management review at Zimmer.

In view of our findings with respect to the competence of Bechtel as an organization and the competence of the individual review team members, we conclude that Bechtel meets the Staff's technical competence standards.

The Staff also believes that an acceptable organization to conduct a verification program must also be independent of the utility under review. The Commission has defined independence ~~is defined~~ as being the ability "...to provide an objective, dispassionate technical judgment, provided solely on the basis of technical merit" (Page 1 of Responses to Questions, attached to Ottinger/Dingell letter.) The

Commission further defined the term by stating that the company approved to conduct an independent review must be one "... not previously involved with the activities... that they will now be reviewing...." Id.

The Staff has considered the information provided regarding Bechtel's role in the Zimmer project by CG&E and Bechtel and the comments offered by members of the public on the question of independence. We believe that Bechtel meets the standards of independence outlined in the Ottinger/Dingell letter. However, a number of comments noted that Bechtel was contacted by CG&E prior to the issuance of the November 12, 1982 Order regarding assistance it could provide in completion of the Zimmer facility. We do not believe that this type of limited contact with CG&E or the Zimmer project would disqualify Bechtel from conducting a review of CG&E's management. [See attached proposed language on Dillon, Redd.]

[OI will provide input here to describe the investigation of when Bechtel was first onsite.]

Notwithstanding the Ottinger/Dingell letter, we also believe it is necessary to consider whether CG&E's intention to use Bechtel as a joint manager for completion of the facility and for purposes of assistance in meeting the requirements of Section IV.B(2) of the Order compromises

Bechtel's independence to perform the management review function. While the Staff expects Bechtel to conduct an objective review of CG&E management, the Staff believes that a separate independent party should be retained to conduct an overview of Bechtel's review and conclusions under Section IV.B(1)(a) and CG&E's recommendation under Section IV. B(1)(b) of the Order. This is required because the proposed subsequent role of Bechtel could adversely affect their ability to perform the independent management review. This separate independent party must be acceptable to the NRC and should be a recognized management consultant which meets the Staff's independence standards. In this manner, CG&E will have the benefit of Bechtel's expert advice of its management of the Zimmer facility and the NRC will be further assured that the proposed relationship between Bechtel and CG&E does not compromise the recommendations made by CG&E under Section IV.B(1)(b) of the Order.

III. Review Program

Bechtel's proposed outline and scope for their management review of Zimmer was submitted to the NRC with CG&E's November 26, 1982 response. The Staff has reviewed this outline and scope and finds it acceptable. Some remaining details, however, need to be clarified. To resolve the Staff's detailed questions, a meeting, open to the public, should be held to obtain additional information from CG&E and Bechtel regarding details associated with Bechtel's proposed plan of action.

IV. Summary and Conclusion

Based on the Staff's review of the documentation submitted by CG&E and the verbal and written comments of members of the public, we conclude that Bechtel meets the Staff's independence and competence criteria for third party reviewers. However, since a significant amount of concern has been raised regarding the planned dual role of Bechtel, the Staff believes that an independent overview of Bechtel's review and conclusions and CG&E's recommendations is required.

Dillon, Read [Add to page 6 of Staff Evaluation]

At the January 5, 1983 public meeting and subsequent letters, the Coalition for Affordable and Safe Energy (CASE) and GAP asserted that Bechtel would have a financial conflict-of-interest affecting its objectivity in reviewing CG&E's management of Zimmer because Bechtel wholly-owns Dillon Read & Co. Inc., an investment banker which has participated in underwriting debt and equity of the three owners of the Zimmer facility. In letters dated January 10 and 31, 1983, which are attached to this evaluation, CG&E has transmitted information from Bechtel regarding the ownership relationship between the Bechtel family and Dillon, Read and the percentage of Dillon, Read's business that is represented by its underwriting from CG&E, Dayton Power & Light Company, and American Electric Power Company (parent of Columbus & Southern Ohio

Electric Company). On the basis of these submittals, the staff concludes that there could only be a speculative and remote effect on Dillon, Read's business as a result of any recommendations of Bechtel Power Corporation with respect to the Zimmer project. Bechtel states that it ". . . has no intention of permitting the financial interests of Dillon, Read & Co. Inc., to interfere with the independent exercise of its judgment as a professional engineering firm." Letter of H. W. Wahl (Bechtel) to William H. Dickhoner (President, CG&E), dated January 31, 1983, page 2. The staff concludes that the financial relationship between the Bechtel family and Dillon, Read does not compromise Bechtel's ability to conduct an independent review of CG&E's management of Zimmer.

Staff Evaluation of Cincinnati Gas & Electric Co.
Proposal to Conduct the Review of the Management
of the Zimmer Project in Accordance with Section
IV.B(1)(a) of the Commission's November 12, 1982 Order

I. Purpose

The purpose of this document is to provide an evaluation of the Cincinnati Gas and Electric Company (CG&E) response to Section IV.B(1)(a) of the Commission's November 12, 1982 Order. The Order requires an independent review of the management of the Zimmer Project, including management of the quality assurance and quality verification programs. Specifically:

"Accordingly, pursuant to sections 103, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, IT IS HEREBY ORDERED THAT: ...

- B. The licensee shall show cause why safety-related construction activities, including reworking activities, should not remain suspended until the licensee:
- (1) Has obtained an independent review of its management of the Zimmer project, including its quality assurance program and its quality verification program, to determine measures needed to ensure that construction of the Zimmer plant can be completed in conformance with the Commission's regulations and construction permit.
 - (a) The independent organization conducting this review shall be knowledgeable in QA/QC matters and nuclear plant construction and shall be acceptable to the Regional Administrator. The independent organization shall make recommendations to the licensee regarding necessary steps to ensure that the construction of the facility can be completed in conformance with the

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Commission's regulations and the construction permit. A copy of the independent organization's recommendations and all exchanges or correspondence, including drafts, between the independent organization and CG&E shall be submitted to the Regional Administrator at the same time as they are submitted to the licensee. In making recommendations, the independent organization shall consider at a minimum the following alternatives for management of the Zimmer project and shall weigh the advantages and disadvantages of each alternative:

1. Strengthening the present CG&E organization.
2. Creation of an organizational structure where the construction management of the project is conducted by an experienced outside organization reporting to the chief executive officer of CG&E.
3. Creation of an organizational structure where the quality assurance program is conducted by an experienced outside organization reporting to the chief executive officer of CG&E.
4. Creation of an organizational structure with both quality assurance and construction project management conducted by an experienced outside organization reporting to the chief executive officer of CG&E...."

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the Staff's existing knowledge of Bechtel's performance at other nuclear power plants and information from members of the public as to Bechtel's competence.

We have considered comments that problems encountered by Bechtel at identified nuclear construction sites (e.g., Midland) demonstrate that Bechtel is not qualified to perform the Zimmer management review. The Staff has reviewed Bechtel's overall performance in nuclear projects and has concluded that Bechtel is qualified to perform the Zimmer management review. We also note that Bechtel has proposed a process for review of the findings of the Zimmer team which will bring to bear the full expertise which Bechtel has to offer. Bechtel has stated that the Zimmer team will operate independently of the functional management in the Ann Arbor Power Division (AAPD), that the team's findings will be critiqued by the AAPD functional management and that the team's report will also be reviewed by Bechtel Power Management, which works independently of the Divisions and reports directly to the President of the Bechtel Power Corporation.

CG&E's November 26, 1982 letter documents specific experience of the proposed Bechtel staff to be assigned to this project. The Staff has reviewed the qualifications of, and has made inquiries regarding those persons proposed by Bechtel to be assigned to work on the Zimmer management review team.

Based upon its review, the Staff concludes that Bechtel has assigned top quality personnel to the review team. A number of the individuals to be assigned to this review have significant experience through involvement on other projects. Their knowledge and experience in technical disciplines and in project management demonstrate their competence to conduct the management review at Zimmer.

In view of our findings with respect to the competence of Bechtel as an organization and the competence of the individual review team members, we conclude that Bechtel meets the Staff's technical competence standards.

The Staff also believes that an acceptable organization to conduct a verification program must also be independent of the utility under review. Independence is defined as being the ability "...to provide an objective, dispassionate technical judgment, provided solely on the basis of technical merit" P. 1 of Responses to Questions, attached to Ottinger/Dingell letter. The Commission further defined the term by stating that the company approved to conduct an independent review must be one "... not previously involved with the activities... that they will now be reviewing...." Id.

The Staff has considered the information provided regarding Bechtel's role in the Zimmer project by CG&E and Bechtel and the comments offered by members of the public on the question of independence. We believe that Bechtel meets the standards of independence outlined in the

Ottinger/Dingell letter. However, a number of comments noted that Bechtel was contacted by CG&E prior to the issuance of the November 12, 1982 Order regarding assistance it could provide in completion of the Zimmer facility. We do not believe that this type of limited contact with CG&E or the Zimmer project would disqualify Bechtel from conducting a review of CG&E's management.

Notwithstanding the Ottinger/Dingell letter, we also believe it is necessary to consider whether CG&E's intention to use Bechtel as a joint manager for completion of the facility and for purposes of assistance in meeting the requirements of Section IV.B(2) of the Order compromises Bechtel's independence to perform the management review function. While the Staff expects Bechtel to conduct an objective review of CG&E management, the Staff believes that a separate independent party should be retained to conduct an overview of Bechtel's review and conclusions under Section IV.B(1)(a) and CG&E's recommendation under Section IV. B(1)(b) of the Order. This is required because the proposed subsequent role of Bechtel could adversely affect their ability to perform the independent management review. This separate independent party must be acceptable to the NRC and should be a recognized management consultant which meets the Staff's independence standards. In this manner, CG&E will have the benefit of Bechtel's expert advice of its management of the Zimmer facility and the NRC will be further assured that the proposed relationship between Bechtel and CG&E does not compromise the recommendations made by CG&E under Section IV.B(1)(b) of the Order.

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IV. Summary and Conclusion

Based on the Staff's review of the documentation submitted by CG&E and the verbal and written comments of members of the public, we conclude that Bechtel meets the Staff's independence and competence criteria for third party reviewers. However, since a significant amount of concern has been raised regarding the planned dual role of Bechtel, the Staff believes that an independent overview of Bechtel's review and conclusions and CG&E's recommendations is required.

Staff Evaluation of Cincinnati Gas & Electric Co.
Proposal to Conduct the Review of the Management
of the Zimmer Project in Accordance with Section
IV.B(1)(a) of the Commission's November 12, 1982 Order

I. Purpose

The purpose of this document is to provide an evaluation of the Cincinnati Gas and Electric Company (CG&E) response to the Commission's November 12, 1982 Order, Section IV.B(1)(a). The Order requires an independent review of the management of the Zimmer Project, including management of the quality assurance and quality verification programs. Specifically:

"Accordingly, pursuant to sections 103, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, IT IS HEREBY ORDERED THAT: ...

- B. The licensee shall show cause why safety-related construction activities, including reworking activities, should not remain suspended until the licensee:
- (1) Has obtained an independent review of its management of the Zimmer project, including its quality assurance program and its quality verification program, to determine measures needed to ensure that construction of the Zimmer plant can be completed in conformance with the Commission's regulations and construction permit.
 - (a) The independent organization conducting this review shall be knowledgeable in QA/QC matters and nuclear plant construction and shall be acceptable to the Regional Administrator. The independent organization shall make recommendations to the licensee regarding

necessary steps to ensure that the construction of the facility can be completed in conformance with the Commission's regulations and the construction permit. A copy of the independent organization's recommendations and all exchanges or correspondence, including drafts, between the independent organization and CG&E shall be submitted to the Regional Administrator at the same time as they are submitted to the licensee. In making recommendations, the independent organization shall consider at a minimum the following alternatives for management of the Zimmer project and shall weight the advantages and disadvantages of each alternative:

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Although CG&E requested approval for Bechtel to conduct reviews of both Sections IV.B(1) and IV.B.(2) of the Order, this evaluation is limited to Section IV.B(1)(a) of the Order.

II. Selection of Independent Reviewer

CG&E has proposed that Bechtel Power Corporation perform both the management review under Section IV.B(1)(a) and the verification of the quality of construction and the preparation of a comprehensive plan for the continuation of construction under Section IV.B(2) of the Order. Additionally, CG&E intends to use Bechtel as "a joint manager with CG&E (licensee) of the project until its successful completion." Letter from W. H. Dickhoner, President of CG&E, to NRC Commissioners, dated November 10, 1982, at 2. The NRC staff has considered CG&E submittals of November 26, 1982 and January 3, 1983, the written comments on the November 26 submittal provided by over one hundred members of the public (organizations and individuals), the clarification of submitted comments, and comments received at a public meeting held in Cincinnati on January 5, 1983. In considering CG&E's proposal, the Commission has directed the staff to use as guidance the letter of February 2, 1982 from Chairman Palladino to Congressmen Ottinger and Dingell, which sets forth the "competence" and "independence" standards that have been applied by the Commission in determining the acceptability of proposed third-party reviewers.

The staff has considered the competence of both the Bechtel organization and the individuals proposed as team members to conduct the independent review of CG&E's management of the Zimmer project. Inputs to this review included the information supplied in CG&E's submittal, the staff's existing

knowledge of Bechtel's performance at other nuclear power plants and by members of the public as to Bechtel's competence.

We have considered comments that problems encountered by Bechtel at identified nuclear construction sites (e.g., Midland) demonstrate that Bechtel is not qualified to perform the Zimmer management review. The staff has reviewed Bechtel's overall performance in nuclear projects and has concluded that Bechtel is qualified to perform the Zimmer management review. We conclude that Bechtel has proposed a process for review of the findings of the Zimmer team which will bring to bear the full expertise which Bechtel has to offer. Bechtel has stated that the Zimmer team will operate independently of the functional management in the Ann Arbor Power Division (AAPD), that the team's findings will be critiqued by the AAPD functional management and that the team's report will also be reviewed by Bechtel Power Management, which works independently of the Divisions and reports directly to the President of the Bechtel Power Corporation.

CG&E's November 26, 1982 letter documents specific experience of the proposed Bechtel staff to be assigned to this project. The staff has reviewed the qualifications of, and has made inquiries on, those persons proposed by Bechtel to be assigned to work on the Zimmer management review team. Additionally, certain of the individuals to be assigned to this review have significant experience through involvement on other projects.

Based upon its review, the staff concluded that Bechtel has assigned top quality personnel to the review team. Their knowledge and experience in technical disciplines and in project management demonstrate their competence to conduct the management review at Zimmer.

In view of our findings with respect to the competence of Bechtel as an organization and the competence of the individual review team members, we conclude that Bechtel meets the competence standard set forth in the Ottinger/Dingell letter.

The Ottinger/Dingell letter also specifies that an acceptable organization to conduct a verification program must also be independent of the licensee of the plant under review. Independence is defined as being the ability "...to provide an objective, dispassionate technical judgment, provided solely on the basis of technical merit" P. 1 of Responses to Questions, attached to Ottinger/Dingell letter. The Commission further defined the term by stating that the company approved to conduct an independent review must be one "... not previously involved with the activities... that they will now be reviewing..." Id.

The staff has considered the information provided by CG&E and Bechtel as to Bechtel's role and the comments offered by members of the public on the question of independence. A number of comments noted that Bechtel was contacted by CG&E approximately one week prior to the issuance of

the November 12, 1982 Order regarding assistance it could provide in completion of the Zimmer facility. Contrary to these comments, we do not believe that Bechtel's prior involvement with CG&E or the Zimmer project would disqualify it from conducting a review of CG&E's management.

Although the issue was not presented at Diablo Canyon, we also believe, however, that it is necessary to consider whether CG&E's intention to use Bechtel as a joint manager for completion of the facility and for purposes of assistance in meeting the requirements of Section IV.B(2) of the Order compromises Bechtel's independence. The staff, however, has no reason to question Bechtel's integrity and, therefore, their ability to provide an "objective, dispassionate" judgment on CG&E's management.

Upon a balancing of all of these factors, the staff believes that Bechtel meets the Commission's competence and independence criteria. The staff believes that because the proposed subsequent role of Bechtel could exert some pressures upon it, a separate third party should be retained to conduct an overview of Bechtel's review and conclusions under Section IV.B(1)(a) and CG&E's recommendation under Section IV. B(1)(b) of the Order. This third party must be acceptable to the Regional Administrator and should be a recognized management analysis consultant which meets the Commission's independence standards and does not have any present expectation that it will perform additional services for CG&E under the Commission Order. In

this manner, CG&E will have the benefit of Bechtel's expert advice of its management of the Zimmer facility and the NRC will be further assured that the proposed relationship between Bechtel and CG&E does not compromise the recommendations made by CG&E under Section IV.B(1)(b) of the Order.

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The Staff also believes that an acceptable organization to conduct a verification program must also be independent of the utility under review. Independence is defined as being the ability "...to provide an objective, dispassionate technical judgment, provided solely on the basis of technical merit" P. 1 of Responses to Questions, attached to Ottinger/Dingell letter. The Commission further defined the term by stating that the company approved to conduct an independent review must be one "... not previously involved with the activities... that they will now be reviewing...." Id.

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IV. Summary and Conclusion

Based on the Staff's review of the documentation submitted by CG&E and the verbal and written comments of members of the public, we conclude that Bechtel meets the ^{Staff's} Commission's independence and competence criteria for third party reviewers. However, since a significant amount of concern has been raised regarding the planned dual role of Bechtel, the Staff believes that an independent overview of Bechtel's review and conclusions and CG&E's recommendations is required.

Draft

MEMORANDUM FOR: Chairman Palladino

FROM: William J. Dircks
Executive Director for Operations

SUBJECT: ZIMMER INDEPENDENT MANAGEMENT REVIEW PLAN

Attached is a proposed letter to CG&E which conditionally approves Bechtel to perform the independent management review required of the Zimmer project directed by Section IV.B(1)(a) of the Commission's November 12, 1982 Order. The essential elements of the letter are:

- ° Bechtel is acceptable to perform the management audit for CG&E.
- ° A separate independent management organization must be retained by CG&E to assure that the management audit methods, findings, and recommendations of Bechtel are not compromised by the proposed future relationship between CG&E and Bechtel for the Zimmer project. Upon completing its effort, this organization will provide CG&E and the NRC simultaneously with a report documenting its actions and conclusions.
- ° This decision does not relieve the requirement for CG&E to provide an audit organization to review the Quality Verification Program as required under Section IV.B(2) of the Order.

The Office of Investigations has conducted an investigation into allegations that Bechtel was performing services for CG&E at the Zimmer site prior to the dates stated by CG&E and Bechtel in submittals to the NRC. In view of the results of the investigation, we have concluded that Bechtel was not performing prior services. Therefore, I intend to authorize Jim Keppler to issue the letter on February , 1983, subject to any comments received from the Commission. No separate public meeting is envisioned regarding

App C-7

Rec'd @ 2/4/83
10:25
S. Velle

Chairman Palladino

selection of the independent management organization to overview Bechtel's management review.

William J. Dircks
Executive Director for Operations

cc: Commissioner Gilinsky
Commissioner Ahearne
Commissioner Roberts
Commissioner Asselstine
OGC
OPE
SECY

Docket No. 50-358

Cincinnati Gas and Electric
Company
ATTN: Mr. W. H. Dickhoner
President
139 East 4th Street
Cincinnati, OH 45201

Dear Mr. Dickhoner:

By letter dated November 26, 1982, you proposed that Bechtel Power Corporation (Bechtel) be retained as the independent organization to conduct the review of CG&E's management of the Zimmer project required by Section IV.B(1)(a) of the Commission's November 12, 1982 Order. Supplemental information in support of this request was provided with your letters of January 3, 10, and 31, 1983.

We find the selection of Bechtel for this assignment to be consistent with the independence criteria outlined in the Commission's letter of February 1, 1982 to Congressmen Ottinger and Dingell. We believe Bechtel can be of considerable help to CG&E and the Zimmer project based upon its proven success in assisting other utilities with their projects (e.g., South Texas; WNF-2; Diablo Canyon). However, since it appears that you may also propose to retain Bechtel in a substantive role in the completion of the project, you should understand that we would only consider Bechtel eligible for both roles provided that you retain an additional independent organization, acceptable to the NRC staff, to conduct an overview of Bechtel's and CG&E's review, conclusions, and recommendations concerning the management of the Zimmer project pursuant to Section IV.B.(1) of the Order. Enclosure 1 provides our rationale for this decision.

The independent overview organization should be a recognized management consultant and must satisfy the independence standards contained in the Ottinger/Dingell letter. This overview is intended to assure that the management review findings and recommendations are not compromised by the proposed future relationship between CG&E and Bechtel. Upon completing its effort, the independent overview organization shall provide CG&E and the NRC simultaneously with a written report documenting its actions and conclusions.

We look forward to your proposal of an organization to conduct the independent overview of the management review and recommendations. We intend to act as expeditiously as possible on that proposal. Since the public's extensive comments offered on your proposal for approval of Bechtel have been considered in our decision, further opportunity for public comment is not envisioned. Note that this requirement for an additional independent organization to conduct such an overview (Section IV.B.(1) of the order)

*Rec'd 2/4/83
@ 10:45
S.V.11a*

Cincinnati Gas and Electric
Company

- 2 -

would not replace the requirement to include an outside audit organization, which did not perform the activities being audited, in the comprehensive quality verification plan required under Section IV.B.(2) of the Order.

While we have approved CG&E's proposal to use Bechtel to perform the review under Section IV.B(1)(a) of the Order subject to the retention of an acceptable management consultant, certain details pertaining to Bechtel's plans for conducting the management review of CG&E need amplification. To expedite resolution of these matters, we would like to meet with you and Bechtel as early as possible. We propose to hold the meeting in Cincinnati, and make it open to public observation. I will contact you shortly regarding arrangements for the meeting.

I am also enclosing a copy of the protocol which NRC expects to be followed during the management review under Section IV.B(1) of the Order as to contacts between or among CG&E, the independent management reviewer (Bechtel), and the party selected to do the independent overview (Enclosure 2).

The approval granted by this letter is limited to Section IV.B(1)(a) of the Order.

Sincerely,

James G. Keppler
Regional Administrator

Enclosures: As stated

cc w/enclosures: See page 3

Cincinnati Gas and Electric
Company

- 3 -

cc w/enclosures:

Mr. Earl A. Borgmann
Senior Vice President
J. R. Schott, Plant
Superintendent
J. D. Flynn, Manager
Licensing Environmental
Affairs Department
DMB/Document Control Desk (RIDS)
Resident Inspector, RIII
Harold W. Kohn, Power
Siting Commission
Citizens Against a Radioactive
Environment
Helen W. Evans, State of Ohio
Robert M. Quillin, Ohio
Department of Health
Thomas Applegate
Thomas Devine, Associate
Director, Institute for
Policy Studies
Dave Martin, Office of
Attorney General
Mark Wetterhahn, Esq.
Jerome A. Vennemann, Esq.
Gretchen Hummel, Ohio
Consumers' Counsel
James R. Williams, State
Liaison Officer, Ohio
Disaster Services Agency

COMMUNICATIONS BETWEEN AND AMONG CG&E, INDEPENDENT MANAGEMENT

REVIEWER (BECHTEL), AND INDEPENDENT OVERVIEWER

In order to ensure the "arms length" relationship between CG&E (including its contractors and subcontractors), the independent management reviewer (Bechtel), and the independent overviewer, while at the same time not unduly restricting the ability of all to complete their efforts, the following protocol shall be adhered to:

1. Consistent with the Commission's November 12, 1982 Order, recommendations, findings, evaluations and all exchanges of correspondence, including drafts, between the independent management reviewer and CG&E will be submitted to the Regional Administrator at the same time as they are submitted to the licensee. Since the Regional Administrator has additionally required CG&E to propose an independent management consultant to conduct an overview of the management reviewer's and CG&E's review, conclusions, and recommendations concerning the management of the Zimmer project, the above requirements will also apply to that organization.
2. The independent management reviewer and the independent overviewer have a clear need for prompt access to whatever information they require to fulfill their roles as described in the Commission's November 12, 1982 Order and in the cover letter to this protocol. To this end, the independent reviewer and overviewer may request documentary material, meet with and interview individuals, conduct

telephone conversations, or visit the site to obtain information without prior notification to the NRC. All communications and transmittals of information shall, however, be documented and such documentation shall be maintained in a location accessible for NRC examination. To the extent that any individual contacted or interviewed requests that his or her name not be revealed, that information need not be included in the documentation but shall, if requested, be made available to appropriate NRC personnel.

3. If the independent reviewer or overviewer wishes to discuss with CG&E substantive matters related to information obtained, to provide an interim report to CG&E, or to discuss its findings or conclusions with CG&E in advance of completing its report, or if CG&E desires such communication, such discussions shall be accomplished in meetings open to public observation. In this regard, CG&E shall provide a minimum of five days advance notice to the Regional Administrator of any such meeting. The Regional Administrator shall make reasonable efforts to notify representatives of interested members of the public of the meeting, but the inability of any person to attend shall not be cause for delay or postponement of the meeting. Transcripts or written minutes of all such meetings should be prepared by the organization requesting the meeting and provided to the NRC in a timely manner. Any portion of such meetings which deals with proprietary information may be closed to the public.

4. All meetings between the Staff and CG&E, the independent reviewer, and/or the independent overviewer will be open to public observation, except where the Staff deems it ⁱⁿ appropriate.

5. All documents submitted to, or transmitted by, the NRC subject to this Protocol will be placed in the NRC Public Document Rooms in Batavia, Ohio, and Washington, D.C., and will be available there for public examination and copying.

Staff Evaluation of Cincinnati Gas & Electric Co.
Proposal to Conduct the Review of the Management
of the Zimmer Project in Accordance with Section
IV.B(1)(a) of the Commission's November 12, 1982 Order

I. Purpose

The purpose of this document is to provide an evaluation of the Cincinnati Gas and Electric Company (CG&E) response to Section IV.B(1)(a) of the Commission's November 12, 1982 Order. The Order requires an independent review of the management of the Zimmer Project, including management of the quality assurance and quality verification programs. Specifically:

"Accordingly, pursuant to sections 103, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, IT IS HEREBY ORDERED THAT: ...

- B. The licensee shall show cause why safety-related construction activities, including reworking activities, should not remain suspended until the licensee:
- (1) Has obtained an independent review of its management of the Zimmer project, including its quality assurance program and its quality verification program, to determine measures needed to ensure that construction of the Zimmer plant can be completed in conformance with the Commission's regulations and construction permit.
 - (a) The independent organization conducting this review shall be knowledgeable in QA/QC matters and nuclear plant construction and shall be acceptable to the Regional Administrator. The independent organization shall make recommendations to the licensee regarding necessary steps to ensure that the construction of the facility can be completed in conformance with the Commission's regulations and the construction permit. A copy of the independent organization's recommendations and all exchanges or correspondence, including drafts, between the independent organization and CG&E shall be submitted to the Regional Administrator

at the same time as they are submitted to the licensee. In making recommendations, the independent organization shall consider at a minimum the following alternatives for management of the Zimmer project and shall weigh the advantages and disadvantages of each alternative:

1. Strengthening the present CG&E organization.
2. Creation of an organizational structure where the construction management of the project is conducted by an experienced outside organization reporting to the chief executive officer of CG&E.
3. Creation of an organizational structure where the quality assurance program is conducted by an experienced outside organization reporting to the chief executive officer of CG&E
4. Creation of an organizational structure with both quality assurance and construction project management conducted by an experienced outside organization reporting to the chief executive officer of CG&E...."

CG&E's response to the Commission's November 12, 1982 Order is contained in correspondence dated November 26, 1982 and January 3, 10, and 31, 1983, to Mr. James G. Keppler.

Although CG&E requested approval for Bechtel to conduct reviews of both Sections IV.B(1) and IV.B.(2) of the Order, this evaluation is limited to Section IV.B(1)(a) of the Order.

II. Selection of Independent Reviewer

CG&E has proposed that Bechtel Power Corporation perform both the management review under Section IV.B(1)(a) and the verification of the quality of construction and the preparation of a comprehensive plan

for the continuation of construction under Section IV.B(2) of the Order. Additionally, CG&E intends to use Bechtel as "a joint manager with CG&E (licensee) of the project until its successful completion." (Letter from W. H. Dickhoner, President of CG&E, to NRC Commissioners, dated November 10, 1982, page 2.) The NRC staff has considered CG&E submittals of November 26, 1982 and January 3, 10, and 31, 1983, the written comments on the November 26 submittal provided by over one hundred members of the public (organizations and individuals), the clarification of submitted comments, and comments received at a public meeting held in Cincinnati on January 5, 1983 and in subsequent correspondence from the Government Accountability Project (GAP). In considering CG&E's proposal, the Staff has used as guidance the letter of February 2, 1982 from Chairman Palladino to Congressmen Ottinger and Dingell, which sets forth the "competence" and "independence" standards that have been applied by the Commission in determining the acceptability of proposed third-party reviewers.

The Staff has considered the qualifications of both the Bechtel organization and the individuals proposed as team members to conduct the independent review of CG&E's management of the Zimmer project. Input to this review included the information supplied in CG&E's submittal, the Staff's existing knowledge of Bechtel's performance at other nuclear power plants and information from members of the public as to Bechtel's competence.

We have considered comments that problems encountered by Bechtel at identified nuclear construction sites (e.g., Midland) demonstrate that Bechtel is not qualified to perform the Zimmer management review. The Staff has considered Bechtel's experience in nuclear projects and has concluded that Bechtel is qualified to perform the Zimmer management review. We also note that Bechtel has proposed a process for review of the findings of the Zimmer team which will bring to bear the full expertise which Bechtel has to offer. Specifically, Bechtel has stated that the Zimmer team will operate independently of the functional management in the Ann Arbor Power Division (AAPD), that the team's findings will be critiqued by the AAPD functional management and that the team's report will also be reviewed by Bechtel Power Management, which works independently of the Divisions and reports directly to the President of the Bechtel Power Corporation.

CG&E's November 26, 1982 and Bechtel's January 14, 1983 letters document specific experience of the proposed Bechtel staff to be assigned to this project. The Staff has reviewed the qualifications of, and has made inquiries regarding, those persons proposed by Bechtel to be assigned to work on the Zimmer management review team.

Based upon its review, the Staff concludes that Bechtel has assigned top quality personnel to the review team. A number of the individuals to be assigned to this review have significant experience through involvement on other projects. Their knowledge and experience in

technical disciplines and in project management demonstrate their competence to conduct the management review at Zimmer.

In view of our findings with respect to the competence of Bechtel as an organization and the competence of the individual review team members, we conclude that Bechtel meets the Staff's technical competence standards.

The Staff also believes that an acceptable organization to conduct a verification program must also be independent of the utility under review. The Commission has defined independence as being the ability "...to provide an objective, dispassionate technical judgment, provided solely on the basis of technical merit" (Page 1 of Responses to Questions, attached to Ottinger/Dingell letter.) The Commission further defined the term by stating that the company approved to conduct an independent review must be one "... not previously involved with the activities... that they will now be reviewing...." Id.

The Staff has considered the information provided regarding Bechtel's role in the Zimmer project by CG&E and Bechtel and the comments offered by members of the public on the question of independence. We believe that Bechtel meets the standards of independence outlined in the Ottinger/Dingell letter. However, a number of comments noted that Bechtel was contacted by CG&E prior to the issuance of the November 12, 1982 Order regarding assistance it could provide in completion of the

Zimmer facility. We do not believe that this type of limited contact with CG&E or the Zimmer project would disqualify Bechtel from conducting a review of CG&E's management.

In its November 26, 1982 submittal CG&E enclosed a November 23, 1982 "revised proposal" from Bechtel, which referenced an initial Bechtel proposal to CG&E on November 8, 1982. On December 28, 1982 the NRC staff requested that CG&E provide identified additional information, including ". . . a chronology of meetings between CG&E and Bechtel and site visits by Bechtel employees in connection with this effort."

In its response of January 3, 1983 CG&E provided the following chronology:

- (1) it had first contacted Bechtel on November 2, 1982 by telephone regarding Bechtel's capabilities to conduct an assessment of the Zimmer Project management;
- (2) Bechtel made an initial presentation to CG&E on November 5, and a written proposal on November 8, 1982;
- (3) CG&E concluded on November 10, 1982 that Bechtel was the most qualified of the firms interviewed and told Bechtel that it would be advising the Commission of a proposed program utilizing Bechtel's services; and
- (4) On November 12, 1982 the Commission issued its Order.

(January 3, 1983 letter from William H. Dickhoner to James G. Keppler, page 2.)

In a Bechtel letter of December 29, 1982 to CG&E, which was enclosed with the January 3 submittal, Bechtel provided the additional information that its services to CG&E commenced on November 15, 1982.

(December 29, 1982 letter to Mr. Dickhoner from Howard W. Wahl, page 3.)

At the January 5, 1983 public meeting GAP stated that they had information that Bechtel had been on site prior to the dates stated by CG&E and Bechtel, and argued that CG&E and Bechtel may therefore have made material false statements. Tr. at 60-61. In response to the Staff's request for whatever information it had regarding the timing of Bechtel's arrival on site, GAP submitted a letter dated January 20, 1983 in which it stated, "Six witnesses reported that Bechtel had communicated with CG&E or arrived on-site before November 1982."

(Letter of Thomas Devine to James G. Keppler, page 3.) Attached to the letter was an affidavit of one of these witnesses. The contents of that affidavit are summarized in GAP's letter (pages 3 - 4). The key points made in the affidavit were:

- (1) the affiant personally saw Bechtel representatives on site as early as August 1, 1982,

- (2) the affiant identified the individuals in question as being Bechtel employees by the Bechtel logo on their briefcases and suits,
- (3) around August 15, 1982 the Bechtel representatives began to use a double trailer that had been brought on site, and
- (4) the affiant asked one of the individuals why he was on site and the individual responded that the job of the team was to study "code compliance and accountability" at the project and that there were two-hundred people on standby ready to come to Zimmer.

The NRC's Office of Investigation (OI) has conducted an investigation into the matters stated in the affidavit provided by GAP. That investigation included the following areas:

- (1) interviews with the affiant and three other witnesses identified by GAP;
- (2) interviews of CG&E officials; ^{and Bechtel}
- (3) review of gate records at the site;
- (4) contacts with local realtors;

- (5) checks of local hotel, motel and rental car records; and
- (6) contacts with consultants to CG&E who had been on site during the summer and fall of 1982.

OI investigated all relevant statements given by the individuals identified by GAP. No corroborating evidence was uncovered by OI to substantiate these statements. The earliest indication of Bechtel presence on site was November 5, 1982, when three Bechtel employees signed in to see Mr. Sylvia (CG&E). This is consistent with CG&E's statement that Bechtel made an initial presentation to it on November 5, 1982.

The OI investigation also developed information which might explain the perception that Bechtel personnel had arrived on site. The investigators determined that there were pervasive rumors at the site during the summer and fall of 1982 that some outside company, perhaps Bechtel, might be coming in to play a key role in the project. Four consulting organizations did arrive at the Zimmer site during the summer, at least two of the employees of these consultants were former Bechtel employees, and one of them did carry a briefcase with a Bechtel logo. ~~On the basis of statements taken from CG&E officials and contacts with these consultants, OI investigators concluded, however, that there was no relationship between Bechtel and these consultants.~~

On the basis of the OI investigation, the staff has been unable to identify any support for the statements made by the individuals identified by GAP. We conclude, therefore, on the basis of the investigation that CG&E and Bechtel did not make material false statements in submittals to the NRC.

At the January 5, 1983 public meeting and in subsequent letters, the Coalition for Affordable and Safe Energy (CASE) and GAP asserted that Bechtel would have a financial conflict-of-interest affecting its objectivity in reviewing CG&E's management of Zimmer because Bechtel wholly owns Dillon, Read & Co. Inc. (Dillon, Read), an investment banker which has participated in underwriting debt and equity of the three owners of the Zimmer facility. In letters dated January 10 and 31, 1983, CG&E has transmitted information from Bechtel regarding the ownership relationship between the Bechtel family and Dillon, Read and the percentage of Dillon, Read's business that is represented by its underwriting for CG&E, Dayton Power & Light Company, and American Electric Power Company (parent of Columbus & Southern Ohio Electric Company). On the basis of these submittals, the Staff concludes that there could only be a speculative and remote effect on Dillon, Read's business as a result of any recommendations of Bechtel Power Corporation with respect to the Zimmer project. Bechtel states that it ". . . has no intention of permitting the financial interests of Dillon, Read & Co. Inc., to interfere with the independent exercise of its judgment as a professional engineering firm." Letter of H. W. Wahl (Bechtel) to William H. Dickhoner (President, CG&E), dated

January 31, 1983, page 2. The Staff concludes that the financial relationship between the Bechtel family and Dillon, Read does not compromise Bechtel's ability to conduct an independent review of CG&E's management of Zimmer.

Notwithstanding the Ottinger/Dingell letter, we also believe it is necessary to consider whether CG&E's intention to use Bechtel as a joint manager for completion of the facility and for purposes of assistance in meeting the requirements of Section IV.B(2) of the Order compromises Bechtel's independence to perform the management review function. While the Staff expects Bechtel to conduct an objective review of CG&E management, the Staff believes that a separate independent party should be retained to conduct an overview of Bechtel's review and conclusions under Section IV.B(1)(a) and CG&E's recommendation under Section IV. B(1)(b) of the Order. This is required because the proposed subsequent role of Bechtel could adversely affect their ability to perform the independent management review. This separate independent party must be acceptable to the NRC and should be a recognized management consultant which meets the Staff's independence standards. In this manner, CG&E will have the benefit of Bechtel's expert advice of its management of the Zimmer facility and the NRC will be further assured that the proposed relationship between Bechtel and CG&E does not compromise the recommendations made by CG&E under Section IV.B(1)(b) of the Order.

III. Review Program

Bechtel's proposed outline and scope for their management review of Zimmer was submitted to the NRC with CG&E's November 26, 1982 response. The Staff has reviewed this outline and scope and finds it acceptable. Some remaining details, however, need to be clarified. To resolve the Staff's detailed questions, a meeting, open to the public, should be held to obtain additional information from CG&E and Bechtel regarding details associated with Bechtel's proposed plan of action.

IV. Summary and Conclusion

Based on the Staff's review of the documentation submitted by CG&E and the verbal and written comments of members of the public, we conclude that Bechtel meets the Staff's independence and competence criteria for third party reviewers. However, since a significant amount of concern has been raised regarding the planned dual role of Bechtel, the Staff believes that an independent overview of Bechtel's review and conclusions and CG&E's recommendations is required.

ROUTING AND TRANSMITTAL SLIP

Date

2/3

TO: (Name, office symbol, room number, building, Agency/Post)

initials

Date

1.	Steve Lewis		
2.			
3.			
4.			
5.			

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

Here are my comments on Tom Rehm's letter.

Bert
Comments given to Burns.

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)

Room No.—Bldg.

Phone No.

5041-102

GPO : 1981 O - 361-529 (148)

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.206

app. C-8
D-2

To: Steve Lewis
FR: Steve Burns
2-Pages

MEMORANDUM FOR: Chairman Palladino
FROM: William J. Dircks
Executive Director for Operations
SUBJECT: ZIMMER INDEPENDENT MANAGEMENT REVIEW PLAN

Attached is a proposed letter to CG&E which conditionally approves Bechtel to perform the independent management review required of the Zimmer project directed by Section IV.B(1)(a) of the Commission's November 12, 1982 Order. The essential elements of the letter are:

- ° Bechtel is acceptable to perform the management audit for CG&E.
- ° A separate independent management organization must be retained by CG&E to assure that the management, ^{audit methods,} findings and recommendations of Bechtel are not compromised by the proposed future relationship between CG&E and Bechtel for the Zimmer project. Upon completing its effort, this organization will provide CG&E and the NRC simultaneously with a report documenting its actions and conclusions.
- ° This decision does not relieve the requirement for CG&E to provide an audit organization required under Section IV.B(2) of the Order to review the Quality Verification Program.

conducted an investigation into allegations that Bechtel become involved in the Zimmer project² earlier than the dates stated in CG2E and Bechtel submittals.

The Office of Investigation has ~~completed its investigation of the~~ allegations regarding Bechtel's early involvement at the Zimmer site and ~~could not~~ ~~substantiate them.~~ concluded that the allegations are without merit. Therefore, I intend to authorize Jim Keppler to issue the letter on ~~February 9, 1993~~ subject to ^{to be filled in by EDO} any comments received from the Commission. No separate public meeting is envisioned regarding selection of the independent management organization to overview Bechtel's management review.

William J. Dircks
Executive Director for Operations

cc: Commissioner Gilinsky
Commissioner Ahearne
Commissioner Roberts
Commissioner Asselstine
OGC
OPE
SECY

No corroborating evidence was uncovered by OI to substantiate these allegations

In view of the results of the inv, we have concluded B. not doing prior services.