

Bechtel Power Corporation

Engineers—Constructors

Fifty Beale Street

San Francisco, California

Mail Address: P.O. Box 3965, San Francisco, CA 94119



November 23, 1982

Mr. W.H. Dickhoner, President
Cincinnati Gas and Electric Company
139 East Fourth Street
Cincinnati, Ohio 45202

Dear Mr. Dickhoner:

Bechtel submits this revised proposal for providing completion services for your W.H. Zimmer plant. This revision to our proposal, originally submitted on November 8, 1982, responds to the Nuclear Regulatory Commission's Order to Show Cause dated November 12, 1982, and incorporates the requirements of the Independent Review of the Management of the Zimmer Project as outlined in section IV B (1) of that order. As requested, we have provided information regarding Bechtel's independence from Cincinnati Gas and Electric (Appendix D) and our qualifications and experience in QA/QC matters which has been appropriately added to Appendix C.

Our proposal is organized as follows:

Appendix A describes the objectives and approach to the Independent Review of the project which is proposed for accomplishment under the Technical Services Agreement submitted on November 8, 1982. This review which we have designated as Phase I is currently in progress.

Appendix B includes the resumes of the Independent Review Team members.

Appendix C includes summaries of Bechtel's nuclear experience which, as you know, is approached by no other company. We have added additional information describing Bechtel's capabilities and approach to managing project quality. (pp C-4 through C-13)

Appendix D includes information affirming Bechtel's independence from Cincinnati Gas and Electric and the Zimmer project.

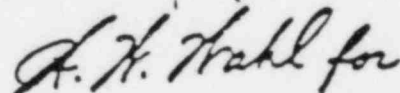
Mr. W.H. Dickhoner
Cincinnati Gas and Electric Company
November 23, 1982
Page 2

We are prepared to mobilize a Quality Assurance Audit Team to verify the adequacy of the quality of construction of the Zimmer project in accordance with Section IV B (2) of the above mentioned Order to Show Cause. It is proposed that the team be headed by Mr. J.A. Amaral who is Bechtel Power Corporation's Corporate Quality Assurance Manager. Mr. Amaral is on my staff and is responsible to me for overseeing and coordinating all of Bechtel Power Corporation's Quality Assurance Programs. The team will include other Bechtel Senior Quality Assurance personnel selected from our various divisions. The Quality Assurance Audit Team will be separate from our Independent Review team. A more detailed description of our plan and approach for such audit will be forthcoming under separate cover.

During 1982, fuel was loaded on six of our units. Work was deferred or cancelled on four additional units. With these completions and cancellations, Bechtel is prepared to staff the Zimmer project with nuclear experienced personnel in all aspects of project completion management.

Bechtel remains committed to assisting Cincinnati Gas and Electric in the successful completion of the W.H. Zimmer Nuclear Station Project.

Sincerely,



H.O. Reinsch
President

HOR/lsw

Enclosures

cc: E.A. Borgmann

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Independent Review Team

Division Management	-	W. G. Henry
Project Operations	-	G. B. Jones*
	-	R. K. Vassar (part-time)
Construction	-	D. M. Stover*
	-	C. Turbow
Project Controls	-	R. Soderholm
QA/QC	-	R. L. Scott*
	-	G. W. Stanley*
Code - Welding Inspection	-	L. L. Campbell
Startup Turnovers	-	J. G. Walker (part-time)
Engineering	-	R. L. Loos (part-time)
Document Control	-	C. Rixford (part-time)

The survey team will be headed up by G. B. Jones and will report to W. G. Henry, Vice-President and Deputy General Manager of the Ann Arbor Power Division.

The resumes of full time team members follow.

*Available for permanent Zimmer Project Team.

Demonstration of Independence

In the meeting of November 17, 1982, between Cincinnati Gas and Electric (CG&E), the Nuclear Regulatory Commission (NRC), and Bechtel, the NRC requested that Bechtel demonstrate its independence from CG&E and the Zimmer project utilizing the criteria established for the design verification program for Diablo Canyon.

The criteria to test the independence of the proposed companies for Diablo Canyon were listed in Chairman Palladino's response to Congressmen Dingell and Ottinger dated February 1, 1982. The most important consideration is the technical competence of the companies or individuals involved. Further, these parties were not to have had any direct previous involvement with the activities at Diablo Canyon that they were to review. In addition, five factors would be considered in evaluating their independence. These factors as appropriate to CG&E and the Zimmer project are as follows:

1. Whether the individuals or company had been previously hired by CG&E to do similar work;
2. Whether any individual involved had been previously employed by CG&E (and the nature of employment);
3. Whether the individual owns or controls significant amounts of CG&E stock;
4. Whether members of the present household of individuals involved are employed by CG&E; and
5. Whether any relatives are employed by CG&E in a management capacity.

Neither Bechtel Power Corporation nor any of the individuals directly involved in the Independent Review of the Management of the Zimmer Nuclear Project (see Appendix B)

- have been previously involved in the Zimmer project
- have been previously hired by CG&E to do similar work
- have been previously employed by CG&E
- own or control significant amounts of CG&E stock
- have present household members employed by CG&E
- have relatives employed by CG&E in a management capacity

In 1977-78 Bechtel performed a steam system evaluation study for Dayton Power and Light, one of the owners of the Zimmer Project.

In 1977-79 Bechtel performed a study of replicating four existing power plants for American Electric Power, one of the owners of the Zimmer Project.

GOVERNMENT ACCOUNTABILITY PROJECT

Institute for Policy Studies

1901 Gue Street, N.W., Washington, D.C. 20009

(202) 234-9382

January 20, 1983

Mr. James Keppler
Regional Administrator, Region III
U.S. Nuclear Regulatory Commission
799 Roosevelt Road
Glen Ellyn, Illinois 60137

Dear Mr. Keppler:

At the January 5, 1983 public meeting on Cincinnati Gas and Electric's (CG&E) proposal of the Bechtel Corporation to administer the third party program at the Zimmer nuclear power station, Region III counsel Stephen Lewis requested that public critics produce evidence for two serious challenges to the Bechtel nomination. On behalf of the Miami Valley Power Project (MVPP), the Government Accountability Project (GAP) presents this response, as well as supplemental comments.

More specifically, Mr. Lewis challenged critics to produce evidence that Bechtel first arrived on-site at Zimmer to begin work before November 15, 1982 -- the date specified by CG&E and Bechtel for the latter's arrival. Second, Mr. Lewis suggested that we present the full scope of financial conflicts-of-interest due to underwriting purchases of Dayton Power and Light stock by Dillon, Read and Co., Inc., an investment company wholly-owned by Bechtel since June 1981.

During the last two weeks GAP has researched these issues diligently. We have obtained evidence that Bechtel has been on-site continuously at Zimmer since August 1, and after August 15 operated out of a double wide trailer that served as headquarters for its site team. Further, a review of records at the Securities and Exchange Commission reveals that from 1973-82 Dillon Read has purchased at least \$49,415,000 in bonds from the three utilities that own Zimmer, as well as 571,000 shares of stock. Further, Dillon Read co-managed the sale of \$80,000,000 in bonds and 7,100,000 shares of stock for Columbus and Southern Ohio Electric (CSOE) between 1973-76.

I. BECHTEL'S ACTIVITIES AT ZIMMER SINCE AUGUST

A. Background

In public comments on CG&E's November 26, 1982 nomination of Bechtel, critics suggested that the latter's work for CG&E before the Commission's November 12 Order compromised Bechtel's ability to make an independent assessment of the safety hazards at Zimmer and their causes. Most commenters referred to November 1982 communications

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between CG&E and Bechtel. The MVPP comments went a step further: "GAP has received reports since August of Bechtel teams on-site at Zimmer to prepare its workplan. There is no question that developing a program to finish the plan[t] constitutes direct involvement with the Zimmer project, months before the Commission acted." (December 6, 1982 letter from GAP to James Keppler, at 6.)

As a result of the public comments, in a December 28, 1982 letter to CG&E and Bechtel you raised a series of key questions about the nomination. In particular, your first inquiry was as follows:

Please provide all documents and a discussion of any oral understanding related to CG&E's plans to utilize Bechtel as described in your November 10, 1982 letter to the NRC Commissioners and activities contemplated in response to the November 12, 1982 Commission Order. Include with this response a chronology of meetings between CG&E and Bechtel and site visits by Bechtel employees in connection with this effort.

On January 3, 1983 CG&E President William Dickhoner answered that -- on November 2, 1982 the utility contacted Bechtel and other firms; on November 5 Bechtel made an initial presentation off-site; and between November 15, 1982 and December 22, 1982 visited the site on 16 occasions. Similarly, a December 29, 1982 letter from Bechtel Power Corporation Vice President and General Manager Howard Wahl fails to mention any site visits before November 15, 1982.

The subject was discussed at the January 5, 1983 public meeting. In response to an inquiry whether Bechtel's failure to disclose the August visits would constitute a material false statement, Mr. Lewis explained that the early activities would have been within the scope of the December 28 question. (Transcripts, at 60.) Counsel then confirmed the seriousness of this factual dispute in the following exchange:

MR. DEVINE: Well, as you know, since the plant was shut down, a lot of the witnesses have scattered around the country. Some of the best quality assurance personnel at Zimmer were laid off when work was suspended. If I am going to fly around the country and gather these affidavits I want to know if it makes a difference. If Bechtel gave material false statements in response to your December 28 letter, are you going to trust the safety of this community to their judgment for the rest of the Zimmer project?

MR. KEPPLER: I think the answer to that question is, if Bechtel responded falsely, it will be treated as a serious matter, yes.

B. GAP Investigation

After the January 5 meeting, GAP contacted a series of former

Zimmer employees to confirm and clarify their earlier informal reports of Bechtel visits on-site since August. Six witnesses reported that Bechtel had communicated with CG&E or arrived on-site before November 1982. Five of the witnesses were working at Zimmer when the Commission issued its November 12 Order suspending all safety-related construction. One witness provided an affidavit, which is enclosed as Exhibit 1. In his disclosure the witness reported that he had confirmed the accuracy of his statement with four other ex-Zimmer employees, who had agreed to speak with the Federal Bureau of Investigation (FBI). Four of the five witnesses contacted by GAP who did not provide affidavits stated that they would speak with the Federal Bureau of Investigation or the NRC's Office of Investigations.

Taken in combination, the Zimmer witnesses provided the following information:

1) On August 1 a team of Bechtel employees arrived on-site at Zimmer. They entered through the north gate. The Bechtel team wore visitors passes the first day at the plant, although the passes were not seen subsequently.

2) The witnesses initially identified the team with Bechtel, because the members wore suits emblazoned with the Bechtel logo. Although the team members wore CG&E hardhats the first day, they later switched to Bechtel hardhats. One team member stated that the group was from Bechtel.

3) The Bechtel team was on-site continuously from August 1 at least through the Commission's November 12 Order. Initially, there were six Bechtel representatives. The team later increased to eight, and eventually to at least 12 members at the time of the shutdown.

4) For the first two weeks the team worked out of the "head shed" -- the main building for all construction managers. On approximately August 15 a double wide trailer was installed for the team. The location of the trailer is circled on a copy of an aerial photo enclosed as Exhibit 2. The team members were seen entering and leaving this trailer, which was not marked with the corporate seal.

5) A member of the Bechtel team stated that the group was there to do a study of code compliance and accountability, to see if the plant could be completed feasibly within normal quality assurance (QA) requirements. They were to submit a report to CG&E Vice President Earl Borgmann. The same representative stated that Bechtel had a team of 200 employees on stand-by to come in for a larger project. A Bechtel executive in charge of construction at Midland was slated to run the Zimmer audit.

6) Bechtel's work at Zimmer was widely known and discussed among employees on-site, who believed the firm was being eased in to replace the Kaiser Corporation. Only two of six GAP witnesses personally saw specific Bechtel identification, however.

7) One witness reported in an affidavit that in late August or early September NRC Resident Inspector Fred Christianson stood beside Bechtel representatives to observe work on a hanger.

In light of the NRC staff's previous failure to recognize the scope of Zimmer quality assurance violations until pressed by whistle-blowing disclosures, the last allegation is particularly disturbing.

Overall, you have stated that if verified these charges are very serious. In our opinion, these findings independently mandate that you reject the Bechtel proposal, or at least withhold approval until proper authorities can investigate what we believe are material false statements in response to your December 28, 1982 letter on the Bechtel nomination. Further, if CG&E provided misleading or inaccurate statements to support the Bechtel nomination, it should be disqualified from making future nominations. Surely, an "independent" third party cannot provide an "objective" evaluation of the same type issues that it has been working on secretly for CG&E since August -- over three months before the NRC-imposed shutdown. It is not likely that the public will have confidence in eventual third party conclusions, either, if the initial selection process is tainted by deception.

II. FINANCIAL CONFLICTS-OF-INTEREST

At the January 5 meeting, Phil Amadon, Chairman of the Coalition for Affordable and Safe Energy (CASE), reported that Dillon, Read and Co., a wholly-owned Bechtel subsidiary, acquired \$1.5 million in bonds in 1982 from Dayton Power and Light (DP&L), one of the Zimmer owners. Mr. Amadon observed, "[I]f our city council people are responsible enough to remove themselves from voting after dealing with CG&E stocks, we think it might be reasonable to ask Bechtel, which wholly owns Dillon and Reed [sic], to remove themselves from auditing a plant in which they have some financial interest...." (Transcript, at 51.) Mr. Lewis requested that any more complete research be submitted for the record. (Id., at 51-2.)

GAP has checked Standard and Poor's listings to confirm that Dillon Read is a Bechtel subsidiary. In a January 19, 1983 telephone conversation, a Dillon Read representative informed Mr. Amadon that Bechtel acquired the investment firm in June 1981.

GAP has researched a wide sample of utility SEC disclosures back to 1973. Put simply, the firm has an active history as an underwriter for all three utilities which own Zimmer -- CG&E, DP&L, and C&SOE. On balance, Dillon Read participated in purchasing \$129,415,000 in bonds and 7,671,400 shares of stock between 1973-82. Included in this total are \$80,000,000 in C&SOE bonds and 7,100,000 shares of C&SOE stock for which Dillon Read served jointly with the Ohio Company as managing underwriters. Since June 1981 Dillon Read has purchased \$15,440,000 in bonds and 130,000 shares of stock. Statistical summaries for relevant SEC reports are enclosed as Exhibits 3A-3C, respectively.

This research establishes a financial conflict-of-interest.

A subsidiary of the "independent" judge of Zimmer traditionally has purchased and traded significant amounts of stock for utilities that own the Zimmer plant. In light of the potential financial consequences from an aggressive audit and quality verification plan, Bechtel forfeited its objectivity for a job at Zimmer when it purchased Dillon Read in 1981.

The research also is significant with respect to the NRC's own financial independence criteria. A literal reading of the Commission's independence criteria reveals that conflicts due to ownership or control of significant amounts of stock only apply to individuals, not corporations. As the Bechtel case indicates, the omission creates a gaping loophole that could taint any third party review.

C. SUPPLEMENTAL COMMENTS

A. Competence

At the January 5 meeting you were unimpressed that Bechtel had to lay off over 1,000 employees at the Midland site for a quality assurance breakdown -- less than three weeks after the Zimmer shutdown. Similarly, you were not impressed that Consumers Power Company previously had sued Bechtel for "gross negligence" in constructing the Palisades plant in Michigan, or that Bechtel settled the suit instead of contesting it. Reports of falsified QA records and intimidation of quality control inspectors during Bechtel's construction of the Alaska pipeline did not faze you. Instead, you explained that "if you take a critical look at the performance of almost anybody in the nuclear industry, you can find there are jobs that have been done very well and there are jobs that have not been done so well." (Transcript, at 128.)

GAP strongly believes that this evaluation standard is irresponsible. The third party chosen to evaluate the Zimmer QA breakdown will have an enormous responsibility. Fundamental breakdowns in Bechtel's QA programs cannot be brushed aside merely because all organizations have problems. That is precisely why a nuclear construction firm should not be selected to evaluate construction at another nuclear plant, and why CG&E should be required to prove that any alternative choice has an unsurpassed record for quality of its audits and other quality assurance/quality control work. Even if there is a five out of six chance that Zimmer is one of the jobs that Bechtel does "very well," that is no better odds than playing Russian Roulette with public safety.

B. Intolerance of Dissent

After the history of retaliation, intimidation, and vindication of whistleblowers at Zimmer, it is essential that any third party

Mr. Keppler Page 6

has legitimacy with those who have challenged QA violations. This would not be possible with Bechtel. As stated at the January 5 meeting, if the gag order in Bechtel's standard employment contract had been enforced at Zimmer, the problems at the plant would have gone undetected.

Second, the gag order reveals Bechtel's institutional intolerance of dissent. In light of Bechtel's dominance within the nuclear industry, any employee who works cooperatively with the third party will risk professional suicide within the industry.

MVPP believes that the Bechtel nomination should be rejected due to a lack of independence, financial and functional conflicts of interest, an insultingly deficient audit plan, an erratic track record and a history of internal repression. Even if you are not moved by these deficiencies, we urge you at least to withhold judgment until the allegations of misleading or false statements are resolved.

Sincerely,

Thomas Devine

Thomas Devine
Legal Director

ZIMMER

November 24, 1982

MEMORANDUM FOR: Region III Files

FROM: Stephen H. Lewis, Regional Counsel, Region III

SUBJECT: NOVEMBER 17, 1982 MEETING OF REGION III WITH CINCINNATI
GAS & ELECTRIC AND BECHTEL REGARDING CLI-82-33, "ORDER TO
SHOW CAUSE AND ORDER IMMEDIATELY SUSPENDING CONSTRUCTION".

Following the Commission's November 12, 1982 order suspending safety-related construction at the Zimmer plant and directing Cincinnati Gas & Electric Company (CG&E) to undertake certain actions prior to NRC consideration of resumption of safety-related construction, meetings were held on November 17, 1982 in Cincinnati between NRC Region III and CG&E and among Region III, CG&E and the Bechtel Ann Arbor Power Division (AAPD). The purposes of the meetings were to explain the order and discuss CG&E's planning for implementation. The Region met with CG&E alone in the morning and with CG&E and AAPD together in the afternoon. Participants in the morning meeting were:

CG&E

William Dickhoner, President
Earl Borgmann, Vice President
William Moran, General Counsel
Mark Wetterhahn, Outside Counsel

NRC, Region III

James Keppler, Regional Administrator
Robert Warnick, Director, Office of Special Cases
Dorwin Hunter, Section Leader, Zimmer Section, Office of Special Cases
Stephen Lewis, Regional Counsel

Joining the above participants for the afternoon meeting were:

Howard Wahl, Vice President and General Manager, AAPD
Bill Henry, Vice President and Deputy General Manager, AAPD
George Jones, proposed Project Manager for AAPD work at Zimmer

Mr. Keppler opened the meeting with a discussion of the considerations which led to the issuance of the Commission order. He noted that the Commission and staff were particularly concerned about rework growing out of the Quality Confirmation Program (QCP) being undertaken prior to completion of all of the relevant QCP Tasks.

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Mr. Dickhoner described steps that had been undertaken by CG&E, both before and after the order, with respect to Zimmer construction. He stated that personnel at the site had been further cut back, and that there were now approximately 700 people at the site, of whom 200 were craftspeople. The QCP is, however, continuing. He advised that the CG&E Board of Directors would be meeting on November 18, 1982. He complained that CG&E has not always been provided copies of allegations sent by GAP to the NRC.

NRC participants stated that CG&E would have to receive the Regional Administrator's approval of the independent entity selected to conduct the review of CG&E's management of the Zimmer project (Paragraph IV.B(1) of the order). CG&E advised NRC that prior to the order it had already arranged for AAPD to conduct a review of CG&E's management of the project and that AAPD had commenced its review. NRC advised CG&E that we would not prevent AAPD from continuing with this review, but that CG&E was proceeding at its own risk until the Regional Administrator has approved the selection of AAPD. That approval determination would be based upon a written submission from CG&E to the Regional Administrator setting forth: (1) AAPD's capabilities to perform the management review, (2) whether AAPD (and Bechtel, generally) has the necessary independence of CG&E (e.g., whether Bechtel has performed work, and if so of what type, for CG&E), and (3) the nature of the review that AAPD would undertake under Paragraph IV.B(1).

Paragraph IV.B(2) of the order was discussed. NRC emphasized that the quality verification plan could be submitted only after the Regional Administrator had approved the CG&E recommendations regarding management of the Zimmer project (Paragraph IV.B(1)(b)). NRC clarified that we would expect CG&E to use an outside entity (e.g., AAPD) in preparing the plan for verification of plant quality. That outside entity should be free to conclude that the QCP is insufficient to verify the quality of construction of the plant. CG&E indicated that it was their present intention to use the services of AAPD in the preparation of the comprehensive quality verification plan (and in the construction management of the facility). The staff stated that the order did not preclude the use of the same outside party to perform the management review and to assist in the preparation of the quality verification plan. CG&E also inquired whether the order would preclude the use of AAPD as the entity performing the audit to verify the quality of construction (Paragraph IV.B(2)(a)). The NRC stated that the order would not preclude the use of AAPD as the auditor, inasmuch as AAPD "did not perform the activities being audited."

The NRC agreed that the review under paragraph IV.B(1) was to be focused on management of the Zimmer project including its QA program and quality verification program, and was not intended to be a review of the content of the QCP. The review of the content of the QCP was to be part of the preparation of the comprehensive plan under Paragraph IV.B(2)(a).

November 24, 1982

The NRC advised CG&E that the quality verification audit under Paragraph IV.B(2)(a) was not to be confused with the independent verification of design adequacy (typically conducted by reviewing a "vertical slice" of the plant), which would be required of CG&E at some later date prior to any issuance of an operating license for the facility.

Paragraph IV.B(3) of the order was discussed. NRC stated that if CG&E sought to have the order "relaxed" to permit the resumption of certain safety-related construction activities, it would have to demonstrate to the Regional Administrator that any work sought to be permitted: (1) is not related to any quality verification concerns which have been raised and (2) will include adequate controls.

The NRC stated that if CG&E should determine that the facility will not be able to meet any applicable codes and standards, it should proceed promptly to propose to the NRC alternative engineering bases for demonstrating acceptability. Any consideration of deviations from the ASME Code would have to involve the cognizant Code Committees and the National Board of Boiler and Pressure Vessel Inspectors.

Mr. Dickhoner requested that the NRC be prepared to act promptly on any request CG&E might file for permission to proceed with identified construction activities. Mr. Keppler indicated that NRC would give high priority to any such request and would seek to act on it as promptly as possible.

CG&E asked for an early meeting with Region III on the September 24, 1982, "Demand for Information" issued under 10 CFR §50.54(f) with respect to "Miami Valley Power Project's Petition to Suspend Construction of the Zimmer Station," dated August 20, 1982. The purpose of the meeting would be to clarify the "Demand." [The requested meeting was held on November 22, 1982.]

CG&E advised the NRC that it will shortly send the NRC a letter advising of certain activities which it believes are not proscribed by the order and asking for the Regional Administrator's concurrence that CG&E may continue with those activities. [A letter was sent on November 18, 1982 and a revised letter on November 22, 1982.]

In the afternoon, AAPD joined CG&E and the NRC for discussions. The focus of the meeting was on the following areas:

1. CG&E should be sensitive to NRC's concerns with AAPD's performance at Midland and should reflect in the document submitted with respect to approval of AAPD the capabilities of AAPD to assess effectively CG&E's management.

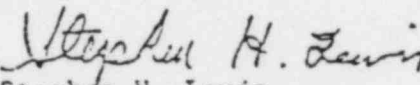
November 24, 1982

2. The NRC advised AAPD that, if selected to conduct the review of CG&E management, it should feel free to discuss matters with respect to this review directly with NRC, without having to go through CG&E.
3. The NRC emphasized that AAPD, if selected, should consult with the Authorized Nuclear Inspector, the National Board of Boiler and Pressure Vessel Inspectors and other entities involved in assessing the adequacy of construction of the Zimmer facility.

AAPD emphasized to the NRC that it would strive for open communication among itself, NRC, and CG&E. If AAPD is retained to assist CG&E in management of construction of the facility, AAPD would normally expect to discuss its findings with CG&E before bringing them to NRC's attention.

AAPD hopes to complete its initial assessment of CG&E's management and to make recommendations to CG&E within three weeks. It is already on site and has begun its review.

Mr. Keppler stated that the NRC intends to hold meetings that would be open to the public at appropriate stages in the implementation of the order.


Stephen H. Lewis
Regional Counsel

cc: W. Dircks, EDO
H. Denton, NRR
R. DeYoung, IE
G. Cunningham, ELD

THE CINCINNATI GAS & ELECTRIC COMPANY



W. M. DICKMONER
PRESIDENT

U. S. Nuclear Regulatory Commission
Region III
799 Roosevelt Road
Glen Ellyn, Illinois 60137

Attention: Mr. J. G. Keppler
Regional Administrator

RE: Wm. H. Zimmer Nuclear Power Station Unit 1
Order to Show Cause and Order Immediately
Suspending Construction, Docket No. 50-358,
Construction Permit No. CPPR-88, W.O. 57300,
Job E-5590

November 26, 1982

PRINCIPAL STAFF			
SA		SA	
DARA		DEP	
APRA		AP	
DPERP		PAO	
DEFGOS		ELO	
DESTP		LEWIS	
ML			
OL		FILE	

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to RA
for file*

Gentlemen:

This letter responds to Section IV.B. (1) (a) of the Order to Show Cause and Order Immediately Suspending Construction (CLI-82-33) in the captioned proceeding which requires that the independent organization conducting the review of the CG&E management of the Zimmer project be acceptable to the NRC Regional Administrator. Prior to the issuance of that Order by the NRC, it had become apparent to us that arriving at solutions to the various problems on the Zimmer project had been a much slower and complicated process than we anticipated even after the IAL and NOV were issued and that a fresh approach was necessary. Accordingly, we had concluded that some additional project management and problem-solving expertise should be brought to bear upon the Zimmer project.

Several outstanding and experienced architect-engineering firms were contacted for providing these services. One management consulting firm who has significant experience in the nuclear field was also considered. One of the architect-engineering firms was eliminated from serious consideration because of its not being sufficiently independent from the Company, utilizing criteria similar to those set forth by the NRC in its letter of February 1, 1982, to Congressman Ottinger. We solicited proposals from the other three firms for providing the type of expertise needed to assess the status of the project and then to complete it in full compliance with all applicable requirements. These proposals were analyzed by us and a determination made that the Bechtel Power Corporation was best qualified to meet the needs of the Zimmer project.

In my letter of November 10, 1982, to the five Commissioners, I set forth a proposed program for improving our construction and quality assurance programs, utilizing the Bechtel Power Corporation as a management, quality assurance and construction consultant.

NOV 29 1982

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U. S. Nuclear Regulatory Commission
Attention: Mr. J. G. Keppler
Page 2
November 26, 1982

On November 12, 1982, the subject Order to Show Cause and Order Immediately Suspending Construction was issued, which set forth a program for the Company to follow in order to resume safety-related construction activity at Zimmer. That program parallels the program set forth in my letter of November 10, 1982, and we believe that the selection process utilized in selecting Bechtel for our proposed program is also valid for selecting the independent organization to address the requirements of IV.B.(1) and (2) of the NRC Order of November 12, 1982.

Based on our review of the proposals submitted to us and on the experience and qualifications of the companies involved, we have determined that Bechtel fully meets all NRC requirements while at the same time is best qualified to meet our needs at Zimmer. The management consultant was eliminated from consideration because technical expertise as well as management ability is needed in these final stages of completion. Each of the companies we interviewed had outstanding credentials in specific areas, but the Bechtel Power Corporation had outstanding credentials in all reviewed areas of expertise needed for the successful completion of Zimmer and had a pool of individuals having expertise in a number of areas who could be drawn upon as necessary, as well as having complete independence from our organization.

Enclosed for your review is a proposal from the Bechtel Power Corporation dated November 23, 1982, which sets forth the manner in which it meets the requirements of IV B (1) and (2) of the November 12, 1982 Order. We believe that a review of Appendix B of the proposal attests to the quality and experience of the team that Bechtel brings to the Zimmer project. Appendix D demonstrates that Bechtel completely meets the independence requirements of a consultant as set forth in Chairman Palladino's response to Congressman Ottinger dated February 1, 1982.

I don't need to dwell on Bechtel's nuclear experience, which is a matter of record, but I would call your attention to Appendix C which reviews the Bechtel quality program. Bechtel admittedly has had some problems with Region III on the Midland Project, but we believe that the summary of quality program enhancements set forth in Appendix B will indicate to you, as it does to us, that the present Bechtel program would preclude similar problems at Zimmer.

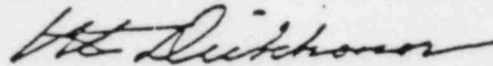
In summary, we believe that the Bechtel Power Corporation is the best qualified consultant to solve the unique problems at Zimmer

U. S. Nuclear Regulatory Commission
Attention: Mr. J. G. Keppler
Page 2
November 26, 1982

and to fulfill the requirements set forth in Sections IV.B. (1) and IV.B. (2) of the NRC Order to the Company, dated November 12, 1982. We hereby request your approval of Bechtel Power Corporation as the independent reviewer to fulfill the requirements of the Order.

Yours very truly

THE CINCINNATI GAS & ELECTRIC COMPANY



By
W. H. Dickhoner

Enclosure

PRINCIPAL STAFF		
ADMIN		
ASST. DIR.		
CHIEF OF BUREAU		
DEPSOS	ISLO	
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Nuclear Regulatory Commission

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Conclusion

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

Respectfully submitted,

CONNER & WETTERHAHN, P.C.

Mark J. Wetterhahn / RWR

Mark J. Wetterhahn
Counsel for Applicants

December 7, 1982

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
The Cincinnati Gas & Electric) Docket No. 50-358
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CERTIFICATE OF SERVICE

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

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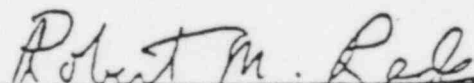
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