

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION



In the Matter of )  
 )  
The Cincinnati Gas & Electric )  
Company, et al. )  
 )  
(Wm. H. Zimmer Nuclear Power )  
Station) )

Docket No. 50-358

APPLICANT'S OBJECTIONS TO CERTAIN OF  
INTERVENOR MIAMI VALLEY POWER PROJECT'S INTERROGATORIES  
RELATING TO CONTENTION 13 AND MOTION FOR A  
PROTECTIVE ORDER

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On November 9, 1979, Miami Valley Power Project ("Project"), Intervenor in the captioned proceeding, filed a set of interrogatories on the Applicant, The Cincinnati Gas & Electric Company, et al., relating to Contention 13. For the reasons stated hereinafter, Applicant objects to Interrogatory 1 inasmuch as it concerns matters beyond the limited issues for further discovery as determined by the Atomic Safety and Licensing Board ("Licensing Board") and is not reasonably calculated to lead to admissible evidence. Applicant is responding to the remainder of the Project's latest set of interrogatories. Applicant further moves, pursuant to 10 C.F.R. §2.740(c), for a protective order that the objectionable discovery not be had.

In its Memorandum and Order Ruling on Various Motions and Rescheduling Evidentiary Hearing dated October 1, 1979, at 5, the Licensing Board stated that "[w]e find that additional discovery on Contention 13 to the extent outlined

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by the Staff, is warranted and we grant MVPP's motion [for reopening formal discovery on Contention 13] on that basis [emphasis supplied]." In the previous paragraph, the Licensing Board summarized the Staff's position with regard to the scope of discovery which it had specifically approved:

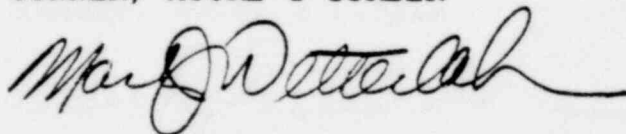
The Staff recommends that we authorize discovery relating to the ability of the Applicants to finance the recently announced increases in cost, including work yet to be performed and costs yet to be incurred.

As pointed out by the Staff, <sup>\*</sup>/ discovery on Contention 13 was formally closed months ago. The Project had literally years to pursue general discovery related to this contention. Thus, discovery whose scope is beyond the Board's October 1, 1979 Order should not be permitted.

Interrogatory 1 seeks to look behind the recent cost increases and is thus beyond the scope of the Board's permitted discovery which, as shown above, is limited to whether the Applicant is financially qualified, given the cost increases. Thus Interrogatory 1 is defective and no response should be required.

Respectfully submitted,

CONNER, MOORE & CORBER



Mark J. Wetterhahn  
Counsel for the Applicant

November 27, 1979

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<sup>\*</sup>/ NRC Staff's Response to Miami Valley Power Project's Motions for Full Disclosure and Additional Discovery on Financial Qualifications dated September 13, 1979.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicant's Objections to Certain of Intervenor Miami Valley Power Project's Interrogatories Relating to Contention 13 and Motion for a Protective Order," dated November 27, 1979, in the captioned matter were served upon the following by deposit in the United States mail this 27th day of November, 1979:

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