

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



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

APPLICANTS' SUPPLEMENTAL RESPONSE TO THE CITY OF
CINCINNATI'S MOTION FOR LEAVE TO AMEND ITS
PETITION FOR LEAVE TO INTERVENE

Introduction

During the course of the evidentiary hearing in the captioned matter, counsel for the City of Cincinnati distributed a two page document entitled "Amended City Contention On Air" which purported to amend a previously submitted contention to which the Applicants had already replied, stating that it should be denied.^{1/} The presiding Atomic Safety and Licensing Board granted the parties until July 16, 1979 to reply to the amended contentions which it designated, for reference purposes, Nos. 18 and 19 in this proceeding. Even as amended, the contentions are defective and should be denied.

^{1/} Applicants' Response to the City of Cincinnati's Motion for Leave to Amend its Petition for Leave to Intervene dated June 4, 1979. To avoid repetition, that response is incorporated by reference into this supplemental response.

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Discussion

As stated at the hearing (Tr. 2078-88), the Applicants oppose these proposed contentions in that they bear no relationship to the adequacy of the Zimmer air monitoring program and they fail to distinguish between routine releases and any releases which might be associated with an accident. The failure to make this distinction indicates a complete lack of understanding between the requirements of 10 C.F.R. Part 20 and Appendix I to 10 C.F.R. Part 50 on one hand and the guideline values of 10 C.F.R. Part 100 on the other hand. ^{2/} This Board, of course, must treat the two types of releases differently. If the intervenor cannot even specify which regulations it intends, the contentions should be denied pursuant to §2.714.

Furthermore, these contentions are different from the contentions previously filed by the City. The Applicants hereby incorporate by reference the statements made at the hearing in opposition to the admission of these contentions. ^{3/}

The basic premise of these contentions appears to be "more is better," without any reference whatsoever to the Nuclear Regulatory Commission's standards or requirements. The effect

^{2/} This distinction also has a critical effect on the scheduling of these contentions. If related to routine releases, they can be heard by the Board without awaiting any Commission action on Three Mile Island.

^{3/} Following the Board's direction (Tr. 2088), the Applicants have not further argued the lateness of the City's contentions; however, the Board, of course, is required to weigh the five factors contained in 10 C.F.R. §2.714(a) as discussed in Applicants' June 4, 1979 submittal.

of these two contentions would be to impose requirements for more and more data production without any showing whatsoever that the information is required by any Commission regulation, precedent or guideline, or is even needed by the City and would, in fact, be utilized. Furthermore, there is no showing as to the availability and practicality of the equipment, the need for such equipment or any reasons why the Applicants, rather than the City, should supply such equipment and bear the costs associated with its operation. (The City, of course, can set up any instrumentation it wishes within its own jurisdiction.) The Applicants submit that, because of the lateness of these contentions, providing such information should be required as a condition precedent to any further consideration of these contentions by the Board.

The City has failed to demonstrate that the equipment and procedures already proposed by the Applicants are completely sufficient to meet all NRC regulations regarding environmental monitoring and emergency planning.^{4/} In fact, the City specifically states that the proposed new requirements

^{4/} Reductio ad absurdum, the City seeks to have this Board determine that the Commission's Appendix E, 10 C.F.R. Part 50, as well as the acts of the sovereign State of Ohio in establishing its emergency preparedness program, should be set aside because they do not specifically provide for special privilege to a geographical subdivision. As such, this matter is clearly not within this Board's jurisdiction.

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would be in addition and not in substitution to "Applicant's other obligations."^{5/}

The City of Cincinnati is over 20 miles from the Zimmer facility, and is only one of many special interest groups. No specific showing has been made on the City's part as to any unique position which would entitle it to the equipment and data it seeks. Such fragmentation and special considerations are totally inconsistent with Appendix E which provides for a coordinated response by authorized Federal, State and local authorities to an emergency condition. The admission of these contentions would significantly increase the scope of these hearings and could open the floodgates to additional contentions.


Conclusion

For the foregoing reasons, the City's proposed contentions 18 and 19 should be denied.

Respectfully submitted,

CONNER, MOORE & CORBER


Troy B. Conner, Jr.


Mark J. Wetterhahn
Counsel for the Applicants

July 16, 1979

^{5/} The Staff has already indicated that as a result of the Three Mile Island occurrence it will install 40 dosimeters around each operating facility (Tr. 2086). However, to this point, even the Staff has not taken the position that, as a result of TMI, any instantaneous continuous reading, monitoring equipment is necessary. Licensee submits that if the Board were otherwise inclined to grant these contentions, it should await NRC action as a result of TMI in order to determine whether the Commission believes that proposals such as the City's are necessary as a result. Any other course could lead to inconsistencies in NRC requirements.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Supplemental Response to the City of Cincinnati's Motion for Leave to Amend its Petition for Leave to Intervene," dated July 16, 1979, in the captioned matter, have been served upon the following by deposit in the United States mail this 16th day of July, 1979:

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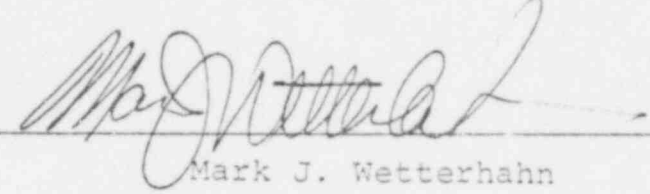
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