

7/28/81

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD



In the Matter of

THE CINCINNATI GAS & ELECTRIC
COMPANY, et al.

(Wm. H. Zimmer Nuclear Power
Station)

Docket No. 50-358-0L

INTERVENOR FANKHAUSER'S RESPONSE TO
APPLICANTS' MOTION TO BEGIN HEARINGS
ON EMERGENCY PLANNING AND MONITORING
AND FOR OTHER SUPPORTIVE RELIEF



The Applicants in the above styled hearing have requested this Board to consolidate issues and contentions of the intervening parties for hearing and have requested that hearings commence on some of the remaining contentions. The Applicants have further sought to have this Board impose a rather onerous and unworkable procedural requirements upon all intervenors in the resolution of these remaining contentions.

Dr. Fankhauser strongly objects to having his remaining contentions bifurcated into two separate hearings as suggested by Applicants. The issues raised by the contentions Applicants now seek to have heard before this Board are too interrelated to the issues raised by the contentions Applicants suggest be heard at a later hearing in order for there to be a meaningful hearing on less than all of the remaining contentions. The result of having some of the monitoring

DS03
50/1

and emergency contentions heard at this time without including other similar contentions would be wasteful and duplicative. The emergency planning of state and local jurisdictions, which Applicants suggest be heard at a later time, can only be meaningfully examined in a review of all aspects of emergency planning and monitoring the Zimmer Station as raised by other contentions.

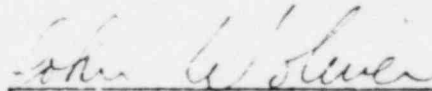
The Applicants suggest that several of the monitoring and emergency issues are ripe for hearing immediately, because Applicants contend that "[the Emergency] Plan, as revised, is in compliance with NUREG-0654, Rev. 1". This compliance was allegedly achieved on July 1, 1981, upon the filing of Amendment 123 to Applicants' Application to Construct and Operate the Zimmer Power Station. Dr. Fankhauser requests that now all parties should be given a reasonable time (90 days) to conduct discovery prior to this Board's convening a pre-hearing conference. Only now that Applicants claim to be in compliance with NUREG-0654, can more meaningful discovery be had by the parties. Therefore, if the hearings are scheduled as suggested by Applicants, Dr. Fankhauser would be prejudiced.

Furthermore, this Board should not consolidate any issues or parties until after discovery is complete and a pre-hearing conference is held. Only then, can this Board and the various intervening parties be able to best determine which contentions, if any, should be consolidated. To do otherwise could prejudice the rights of various intervenors.

Applicants' six point suggestion concerning how each intervenor must proceed with respect to the remaining contentions barely merits a response. It is sufficient to say that their suggestion is basically unworkable and clearly

burdensome upon all other parties. Among other things, Applicants seem to suggest that parties should specify documents to be utilized in cross-examination prior to their even being able to review the direct testimony of Applicants' witnesses. This myopic view of how these hearings should proceed has no place before this administrative tribunal.

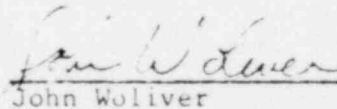
Respectfully submitted,



John Woliver
Attorney for Dr. David Fankhauser
P.O. Box #47, 550 Kilgore Street
Batavia, Ohio 45103
(513) 732-2422

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document have been served upon all parties in this proceeding by regular U.S. Mail, postage pre-paid, this 28th day of July, 1981.


John Woliver