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No. 50-358

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U.S. NUCLEAR REGULATORY
COMMISSION

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1/ Copies of the Station Emergency Plan were simultaneously sent to the Licensing Board and the parties and participants in the proceeding.

contains a direct correlation between the matters raised by the Staff in Appendix G and their resolution. Inasmuch as the subject areas of the latest submittal have been discussed with the Staff, Applicants believe that this submittal will be dispositive of all station-related emergency planning and all monitoring issues outstanding between the Applicants and Staff and permit the consideration of the emergency planning and monitoring issues discussed below.

In these circumstances and considering the need for expedition in the completion of this proceeding,^{2/} Applicants move the Board to convene an evidentiary hearing in approximately 30 days to consider the remaining emergency planning and environmental monitoring issues in this proceeding. The only matters for which a reservation is required until the NRC Staff and Federal Emergency Management Agency ("FEMA") have taken a position on the adequacy of the plans,^{3/} are those topics dealing with the emergency planning of state and local jurisdictions. Specifically of the remaining designated Contentions, Nos. 2, 3, 4(a), (b), (g), (h), 7, 8, 9, 10, 18, 19, 22, 25, 26, 27, 29, 32 are now ripe for

^{2/} The Zimmer proceeding is one in which the hearing process may impact the scheduled issuance of an operating license and as such monthly reports are sent by the Chairman, NRC to The Honorable Tom Beville, Chairman, Subcommittee on Appropriations, U.S. House of Representatives.

^{3/} However, consideration of such contentions may clearly begin prior to FEMA action in Zimmer.

consideration.^{4/} For the convenience of the Board, a complete list of the contentions in this proceeding is attached.

In its July 2, 1980 Memorandum and Order Ruling on Contentions of ZAC-ZACK,^{5/} the Licensing Board stated that ZAC-ZACK's contentions would "have to be further refined, specified and supported in order to remain in the proceeding."^{6/} The Board elaborated:

It may well be, for instance, that revised emergency or monitoring plans will include some or all of the features sought by ZAC-ZACK. On the other hand, some of those features may turn out to be impermissible under regulations in effect at the time of hearing. ^{7/}

In view of the publication of the Commission's final rules on emergency planning and NUREG-0654 (Rev. 1), Applicants move that the Board order that all intervenors having emergency planning and monitoring contentions indicate which they will no longer pursue or which they agree have been mooted.

^{4/} If the ongoing settlement negotiations between Applicants and the City of Cincinnati are successful, a number of these contentions may be eliminated. Furthermore, while substantial progress can also be made towards completion of Contentions 4(c)-(f), 20, 21, 23, 24, 28, 30, 31, it may be more expeditious to consider the other contentions first while state and local plans are being completed.

^{5/} LBP-80-19, 12 NRC 67 (July 2, 1980).

^{6/} LBP-80-19 at 72.

^{7/} Id.

In LBP-80-19, the Board stated its views as to the desirability of consolidation of the parties to the proceeding. Since that time, the Commission has issued its Statement of Policy on Conduct of Licensing Proceedings.^{8/}

With regard to consolidation the Commission stated:

In accordance with 10 CFR 2.715a, intervenors should be consolidated and a lead intervenor designated who has "substantially the same interest that may be affected by the proceedings and who raise[s] substantially the same questions" Obviously no consolidation should be ordered that would prejudice the rights of any intervenor.

However, consonant with that condition, single, lead intervenors should be designated to present evidence, to conduct cross-examination, to submit briefs, and to propose findings of fact, conclusions of law, and argument. Where such consolidation has taken place, those functions should not be performed by other intervenors except upon a showing of prejudice to such other intervenors' interest or upon a showing to the satisfaction of the board that the record would otherwise be incomplete. ^{9/}

In accordance with the Commission's Statement of Policy, Applicants move for consolidation of the remaining contentions on the emergency plan/monitoring issue for which an evidentiary hearing is required. Specifically, a single

^{8/} Statement of Policy on Conduct of Licensing Proceedings dated May 20, 1981, CLI-81-8, 46 Fed. Reg. 28533 (May 27, 1981).

^{9/} Id. at 28534.

intervenor should be selected to sponsor witnesses, to cross-examine Applicants' and Staff witnesses, to submit briefs, and to propose findings of fact, conclusions of law and present argument on behalf of all intervenors. Obviously, from the time required for hearings on the previously considered contentions, this move would expedite the proceeding in accordance with the Commission's policy.

In order to remedy a problem which has plagued this proceeding,^{10/} the Licensing Board should require the following for each contention for which an evidentiary hearing is required:

1. Upon the Licensing Board setting the date for hearing, the consolidated intervenors should be required to identify within five days each of their witnesses and specify which contention or subpart such witness is addressing.

2. At the same time that the witnesses are identified, for each such witness all documents and sources which are relied upon and all calculations which form the basis for the testimony should be provided.

^{10/} Contention 17 relating to fire protection is a case in point. A significant amount of hearing time was taken and considerable expense was incurred by the Applicants and the NRC regarding a general contention filed by MVFP to which it was unable or unqualified to pursue. Initially, the Staff had notified the Board that a technical question between it and the Applicants which had been the basis for Contention 17 had been resolved by the conduct of a completely new fire protection test. Moreover, a Motion for Summary Disposition was filed; a hearing was nevertheless held. MVFP sponsored no witnesses and engaged in ineffectual cross-examination. MVFP's single proposed finding on this point was a nullity, merely asserting, bare of citations to the record, that the Staff and Applicants' panels of expert witnesses did not impress the Board. If intervenors are not interested in pursuing a contention, they should be required to promptly inform the Licensing Board.

3. The Board should permit depositions of such witnesses to be noticed within five days after service of such designation.

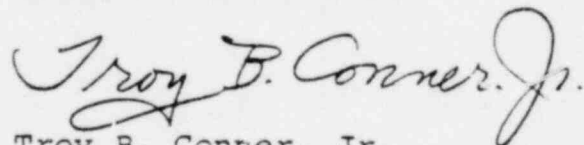
4. At least 15 days prior to the beginning of an evidentiary hearing, written testimony is to be in the hands of the other affected parties.

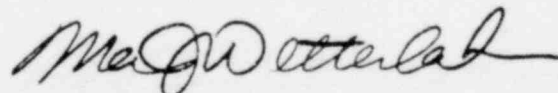
5. At least 15 days prior to the beginning of the evidentiary hearing, the proponent of an issue should be required to specify the documents to be utilized in cross-examination.

6. The proponent of an issue should be required to specify the specific portion of the NRC regulation with which compliance by the Applicants is not achieved in the Emergency Plan and how compliance with other NRC requirements or guidance is insufficient to permit the Board to make the appropriate findings regarding monitoring and emergency planning.

Respectfully submitted,

CONNER & WETTERHAHN


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July 9, 1981

Wm. H. Zimmer Nuclear Power Station
Docket No. 50-358
Contentions of the Intervenor as Granted
by the Atomic Safety and Licensing Board

Contentions of Dr. Fankhauser

1. The Applicants will not meet the design objectives of Appendix I to 10 CFR Part 50 because too great a volume of spent fuel will be allowed to accumulate at the site to keep the emissions below said design objectives.

2. The Applicants' plans for monitoring radiological releases from the plant are inadequate because:

- (a) no provisions have been made to monitor said releases at the Moscow Elementary School which is approximately 800 meters from the proposed site,
- (b) no provision has been made for directly involving the citizenry in the vicinity of the site in the monitoring of the plant's activities,
- (c) it is unclear from the Applicants' plans whether all radioactive emissions will be monitored or whether only certain isotopes will be monitored,
- (d) no monitoring readouts are provided at the City Water Works,

- (e) the statement by Applicants that the monitoring will be "as comprehensive as possible" is vague and monitoring methods are unclear,
- (f) no monthly assays of isotopic concentrations in area food-stuffs are provided for, and
- (g) there are no plans for a ring of monitoring stations around the site to continuously monitor gaseous emissions.

3. The Applicants' plans for monitoring radioactive effluents from the plant are inadequate to prevent contamination of the City of Cincinnati's drinking water supply because no direct links are planned between monitoring equipment at the plant and the City Water Works.

4. The Applicants' plans for dealing with an emergency situation precipitated by an accidental release of radioactivity are inadequate to protect the populace in the vicinity of the proposed reactor because:

- (a) the Applicants leave to the discretion of the emergency coordinator when and whom to notify in case of an emergency,
- (b) there are inadequate provisions for notifying public authorities when a situation is developing which could lead to an emergency,
- (c) inadequate provisions are made for a training and information program directed at the populace in the vicinity of the

reactor to prepare it to deal with a possible emergency,

- (d) no contingency plans for emergencies are presently available involving the Clermont County Disaster Service,
- (e) inadequate provisions are made for sufficient training of local safety officials and agencies to enable them to cope with emergencies precipitated by accidental releases of radioactivity,
- (f) inadequate provisions are made to equip local agencies with safety apparatus adequate to cope with emergencies,
- (g) inadequate provisions are made for notification of local safety officials of occurrences which might result in an emergency situation,
- (h) inadequate access to the plant is permitted by Applicants to local safety officials for the purposes of inspecting safety precautions and procedures established and carried out by plant personnel.

5. There are no plans to provide knowledge and training of the populace in communities through which radioactive materials will be transported sufficient to allow them to be able to cope with transportation accidents.

6. The Applicants will not meet the design objectives of Appendix I to 10 CFR Part 50 because the dose levels to the children at the Moscow Elementary School will exceed those which are permissible.

Contentions of the City of Cincinnati

7. The surface-water monitoring system proposed by the Applicants is inadequate to protect the populace in the Cincinnati area because Applicants do not provide sufficient information regarding permanent monitoring stations and may not provide for monitoring with continuous frequency of the Ohio River upstream from the City of Cincinnati water works intakes.

8. The Applicants' emergency plans are inadequate to provide reasonable assurance that the health and safety of the Citizens of Cincinnati will be protected because the Applicants do not provide sufficient or adequate emergency notice communications to the City's water treatment facilities in the event of accidental leakages or discharges from storage areas of excessive radioactive materials into the receiving waters of the Ohio River.

9. The Applicants have not provided for independent members of its Environmental Review Board who are responsible to the interests of the citizens of Cincinnati. The Applicants' plans for monitoring radioactive emissions from the Zimmer plant are inadequate because the Environmental

Review Board created by the Applicants fails to include any members who would be directly responsible to the interests and welfare of the City of Cincinnati, and not solely to the interests of the Applicants.

10. The Applicants have made no provisions for the transmission of monitoring data to the City for surveillance of upstream levels of radioactive materials in the Ohio River. The Applicants' plans for surface-water monitoring are inadequate because no provisions have been made for the transmission of surface-water monitoring data directly to the City for surveillance of upstream levels of radioactive materials in the waters of the Ohio River.

Contentions of Miami Valley Power Project

11. Current data demonstrates that there is no need for the Zimmer plant at this time because Dayton Power and Light's peak demand is and will not be sufficient to justify the added power until after 1985.

12. The Project alleges that the Applicants cannot guarantee an adequate supply of nuclear fuel for the plant in question. The Board construes this allegation to be that Applicants will not have an adequate fuel supply to operate the plant which is sought to be authorized for operation.

13. The equipment used in the construction and operation of the plant will be excessively costly and, in effect,

beyond the financial capability of Applicants. Applicants are financially unqualified to operate the plant because of escalating costs.

14. Cable trays containing electrical wires have been inadequately welded by improperly qualified welders and there have been inadequate testing of these welds.

Cable trays containing electrical wires have been inadequately welded by improperly qualified welders, contrary to NRC regulations. More specifically, three piece verticals and two piece channels were welded by people not fully ASME certified. These welders were not consistently able to produce a quality weld with good fusion, a situation aggravated by Husky Product's incentive system which induced quick blasting techniques to be employed. Further disregarding standard procedures production welding techniques and test welding techniques were not identical. Any meaningful inspection of the crucial three piece vertical welds is impossible because the trays have been galvanized. Therefore, the existing system of cable trays must be dismantled and a new set, welded by fully certified welders, installed.

15. Control rods which must be easily inserted into and removed from the reactor core have been inadequately manufactured so that they do not meet the size specifications for such control rods.

16. Almost all of the seals on the control rods, which when properly set prevent radioactive water from leaking out when the reactor is shut down for maintenance, do not meet minimum specifications for smoothness. Rough seals cannot set properly, making servicing more difficult and unnecessarily endangering workers and the general public by causing leakage of radioactive water.

17. Fire insulation material which is being used to protect the cables in the cable trays from fire is inadequate to protect the cables in light of the cable tray installation design and cable tray load. The test of the fire insulation material were improperly performed in that conditions which will exist during operation were not adequately simulated.

Contentions of the City of Cincinnati

18-19. Adequate regard for the health and safety of the citizens of Cincinnati requires that the Zimmer Nuclear Power Station not be licensed for operation with an early warning and detection system which provides for:

18. The continuous transmittal of monitoring data capable of showing releases from the plant in excess of 10 CFR Part 50, Appendix I levels, with the capability of making a permanent record thereof, to the appropriate city agencies from continuous stack monitors already provided for at the station, and from any such other known paths of radioactive emissions into the air from the plant.

19. A system of continuous air monitors to be situated in such a manner as to have the capability of detecting the direction and radioactive content of airborne radiation or radioactive plumes from plant releases in excess of the levels prescribed in 10 CFR Part 50, Appendix I, which monitors shall have the capability of making a permanent record of the monitoring data received and analyzed on a continuous basis, and the data from which can be transmitted continuously to appropriate city agencies.

Contentions of ZAC-ZACK

20. The evacuation plans for the plume exposure pathway of the Emergency Planning Zone, approximately a 10-mile radius of the Zimmer Power Station and consisting of, and involving, parts of Clermont County, Ohio, Bracken County, Kentucky, Pendleton County, Kentucky and Campbell County, Kentucky, and potentially parts of Brown County, Ohio, and the municipal and village political subdivisions therein, are inadequate in their respective failures to timely and promptly evacuate the population within that zone to appropriately reduce, or minimize, radiation exposure for the protection of the safety and health of the public, due to:

- (a) the absence of a local control site, or emergency operations facility, in any one, more, or all of the aforementioned counties, as the emergency resource and command center,

properly equipped and staffed, for offsite local and state personnel possessing the responsibility for controlling the area evacuation, directing, and altering as necessary, evacuation routes and directing and deploying local police, fire and para-medical personnel;

- (b) the absence of adequate communication system, or systems, both telephone and radio, for the coordination and direction of evacuation and receipt and dissemination of data and information within any involved county, among involved counties and between county or counties and the site, and for communications between the emergency resource and command center and the site and police, fire and para-medical personnel;
- (c) the public roadways, as access roads for the evacuation of the Emergency Planning Zone populace of Clermont County, Ohio and Bracken, Pendleton and Campbell Counties, Kentucky, are inadequate to promptly and timely evacuate the involved population, and under circumstances of wind direction presenting the plume exposure pathway in the involved Kentucky Counties no adequate access road is available to afford evacuation of that population;

- (d) Bracken and Pendelton Counties, Kentucky have no local agency responsible for emergency preparedness, creation of evacuation plans or monitoring for the protection of the health and safety of the residents of those communities, and have no emergency preparedness, evacuation plan, communication system, monitoring control or coordinator for police, fire and para-medical personnel and the related summoning, directing and deployment of such personnel in an emergency situation;
- (e) the involved counties of Ohio and Kentucky possess no professional, full-time fire and life squads, relying totally upon volunteer, part-time personnel whose primary concern and responsibility is to other endeavors and who have limited training; and the involved counties rely in many respects upon volunteer, auxiliary policemen to supplement inadequately staffed local police units and the total full-time and auxiliary local police personnel, by number, are inadequate to provide immediate and necessary police control in an emergency situation and the emergency resource personnel of police, fire and para-medical are inadequate for utilization during initial emergency and evacuation;

- (f) during flood conditions of the Ohio River and its tributaries, access roadways to the Zimmer Power Station and access roadways for evacuation, situated in Ohio, are impassable, and in certain flooding conditions the Zimmer Station site is isolated and inaccessible to emergency vehicles and in such circumstances both population evacuation and offsite assistance to the Zimmer Station are impossible;
- (g) during inclement winter weather conditions, roadways in the involved counties of Ohio and Kentucky are impassable due to accumulations of ice and snow, rendering evacuation of the respective populations and response of off-site emergency units to the Zimmer Station impossible for substantial time periods, and the majority of access roadways for evacuation purposes remain impassable for prolonged periods of time, measured in weeks, thereby prohibiting large segments of the Emergency Planning Zone populations of the involved counties from being evacuated by motor vehicle or otherwise being evacuated promptly and timely by other means; and a large segment of the Emergency Planning Zone populations of

the involved counties are unable to reach access roadways from their residences for extended time periods during the presence and continuation of large accumulations of snow, thereby precluding either their evacuation by motor vehicle or the timely and prompt evacuation by other means.

21. The evacuation plans for the plume exposure pathway of the Emergency Planning Zone includes 18 elementary and secondary schools situated in Clermont County, Ohio and Bracken County, Pendelton County and Campbell County, Kentucky. Evacuation plans for these schools are inadequate to evacuate the populations of such schools in a time period required to reduce, or minimize, exposure and protect the safety and health of the children, due to:

- (a) an inadequate number of school personnel at each of the subject schools to direct, supervise and control the evacuation of school children to an approved receiving site;
- (b) the school personnel at each of the subject schools lack the training and qualifications to supervise and administer aid and comfort to school children, especially school children in the elementary schools, during evacuation and housing in reception sites during the

emotional trauma occasioned by the emergency and evacuation, or to possess, control, supervise and administer the thyroid blocking agent, potassium iodine, as required, to such children;

- (c) the respective school districts do not possess a sufficient number of buses for a timely and orderly transportation from the school to a receiving site during evacuation;
- (d) the respective school districts do not possess either the capability or the number of buses necessary to afford transportation for the evacuation of school children where the emergency evacuation arises during bus transportation of children for the commencement or termination of the school day, because of the bus routing, multiple routes and trips, and a portion of the children being located at the school site and the remaining children being transported in the available buses;
- (e) the inability of the respective school districts to summon buses to school sites in a prompt and timely manner, or provide standby buses where school evacuation is required during the course of the school day, the

buses being located and stationed at various sites, unattended by drivers and the inadequate and ineffective means, or no means, of communication to drivers to advise of the emergency and to require bus response to the subject school to commence evacuation.

22. There are no warning devices, siren or otherwise, or other communicative means to timely, promptly and effectively advise and alert the community, including the schools within the Emergency Planning Zone portions of Clermont County, Ohio, and Bracken, Pendelton and Campbell Counties, Kentucky, of an emergency and evacuation of the population; and the terrain, or topography, and land characteristics and population distribution of each of the subject counties is such that no universal warning device, siren or otherwise, is capable of alerting the public and informing them of an emergency and evacuation; and the respective counties, and each of them, is without financial means to employ various and numerous alternative devices and methods or the equipment and personnel necessary to warn, alert, advise and inform the public of emergency and evacuation within the time required for the protection of the health and safety of the subject communities.

23. The demography of the Emergency Planning Zone portions of Clermont County, Ohio and Bracken, Pendelton and

Campbell Counties, Kentucky, is such that no adequate, effective and positive education, training and advice to the public can be presented for the public's responsive, orderly and timely evacuation in the event of accident.

24. Within the Emergency Planning Zones of the Zimmer Power Station, inclusive of a 50 mile radius, there are inadequate medical facilities to afford the required bed space, medical and para-medical personnel, requisite medication, screening, treatment and isolation of persons sustaining radiological injury; and the absence of adequate emergency materials, supplies, equipment and vehicles necessary for the transportation of injured persons, injured onsite and offsite, during a radiological accident.

25. The monitoring devices selected and their placement onsite and offsite for the monitoring of anticipated radiation releases and accidental releases of radioactive materials, including plume exposure in the event of accident, as to the type and location are inadequate to protect the health and safety of the populations of Clermont County, Ohio and Bracken, Pendelton and Campbell Counties, Kentucky, and as the same applies to the monitoring of releases into the Ohio River as the same affects the drinking water, plant and animal life of that waterway subsequently consumed by the population of the subject counties; and the inability of such devices and their location and types to adequately and

timely inform the applicant and the respective local and state agencies and related dissemination of such information to and for the protection of the public's health and safety.

26. The monitoring equipment, as to number, type and location, onsite and offsite, is inadequate for the independent monitoring by other sources, including at a minimum individuals and local and state agencies, in conjunction with applicant's monitoring, for the purpose of protecting the public's health and safety in radiation release, radioactive effluents and plume exposure in the emergency situation and the interest of the public in such information.

27. The absence of appropriate type and placement of monitoring devices at the 18 schools located within the 10 mile radius of the Zimmer Power Station, the absence of trained local, state and school personnel to observe such devices and alert and advise accordingly, and the inadequacy of such devices to timely advise of dosage exposure sufficient under applicable standards to require protective action, jeopardize the health and safety of children continuing to be exposed to excessive dosage in the respective schools.

28. The absence of trained local and state personnel to conduct observations of monitoring devices to alert and advise the public of excessive dosage amounts under applicable standards of radiation releases, radioactive effluents and plume exposure in the emergency situation; the absence of a

local agency site in Clermont County, Ohio and Bracken, Pendelton and Campbell Counties, Kentucky; the absence of trained local personnel; the absence of sufficiently trained personnel for 24-hour surveillance and the requisite equipment for the surveillance of onsite informational equipment for independent monitoring and awareness by such local personnel of an unusual event, alert, site emergency or general emergency developing or in being at the site, for simultaneous and responsive action to the same; results in the failure of local and state support and response agencies to possess adequate and necessary emergency preparedness, institution of protective measures and corrective actions, assessment of the situation, alerting and advising the public and the institution of prompt and timely response for the minimizing and reduction of exposure by the public for the public's health and safety.

29. The inadequacy of meteorological equipment and related monitoring of the plume exposure pathway during emergency and the alteration of such path while in progress to furnish prompt, timely and correct information to applicant, local, state and federal personnel to achieve timely and correct decision and to so inform the public of evacuation routes and alterations in such routes as required where the plume exposure path changes directions while in progress, is detrimental to the health and safety of the transient and

permanent population within the plume exposure pathway of the Emergency Planning Zone.

30. The absence of applicant's furnishing, or alternatively, inadequate furnishing, to the population within the plume exposure pathway of the Emergency Planning Zone of protective equipment and gear, including clothing, for use during an emergency and ensuing evacuation for that population's protection against radiological exposure, including whole body and inhalation, and such failure, or inadequacy, as the case may be, subjects the public to health and safety dangers and potential injury.

31. Clermont County, Ohio and Bracken, Pendleton and Campbell Counties, Kentucky do not possess the requisite funds or the financial means for the purchase, installation and maintenance of the required equipment, the requisite personnel, the required training of its personnel or the creation of the necessary control centers to provide adequate protection for the health and safety of the public and the applicant must be responsible for the expenses necessary to achieve a state of emergency preparedness.

32. The adequacy of onsite and offsite organizations for coping with emergency and the adequacy of emergency preparedness must be evaluated in a test conducted prior to commencement of the operation of the Zimmer Power Station as a joint exercise-drill involving applicant's emergency

resource personnel and partial public participation, including partial school participation, within the plume exposure pathway of the Emergency Planning Zone, demographical, topographical, accessible site and evacuation routes and local jurisdictional boundaries being considered and examined, to determine the adequacy of implementing procedures and methods, the testing of emergency equipment and communication networks and timing, from which and due to the land characteristics, personnel, equipment and other relevant factors the state of emergency preparedness will not meet the required standards for the protection of the health and safety of the populace with the Emergency Planning Zone in an emergency circumstance.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Motion to Begin Hearings on Emergency Planning and Monitoring and for Other Supportive Relief," dated July 9, 1981, in the captioned matter, have been served upon the following by deposit in the United States mail this 9th day of July, 1981:

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