

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

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

MOTION FOR WITHDRAWAL OF APPLICATION

On January 21, 1984, The Cincinnati Gas & Electric Company, on its own behalf and on behalf of Dayton Power & Light Company and Columbus & Southern Ohio Electric Company ("Applicants"), announced that it was ceasing work on the Zimmer Station as a nuclear plant and the three companies would use their best efforts to convert the plant to a coal-burning unit.^{*/} Notice to the Commission was given on January 27, 1984, as set forth in the attached letter.

Accordingly, in accordance with 10 C.F.R. §2.107, the Applicants request the issuance of an order authorizing the withdrawal of the application in the captioned proceeding and dismissing the proceeding.

^{*/} Because of the present limited jurisdiction of the Licensing Board, Applicants considered whether the Appeal Board or even the Commission had jurisdiction over this matter. However, it appears that in this case from the second sentence of §2.107(a) that the
(Footnote Continued)

All fuel will be removed from the site not later than August 31, 1984.

The existing nuclear steam supply system will be modified so that it cannot operate as a "utilization facility" by isolating the system inside the reactor building by severing and welding caps on two main feedwater lines and the four main steam leads. In addition, control rod drive mechanisms will be removed from the reactor vessel. The balance of plant will be used to the extent possible as part of the new fossil fuel-fired electric generating plant. As such, there will be no change in the fundamental character of the Zimmer site as one for the generation of electric power.

Because the Applicants will not use the Zimmer site for a nuclear plant at any time in the future, Applicants have no objection to the Licensing Board's dismissal of the application with prejudice against the future use of the site for a nuclear plant.

On the basis of the foregoing, Applicants move that the

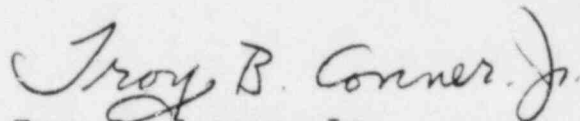
(Footnote Continued)

Commission has specifically delegated withdrawals of applications to licensing boards.

Board issue an order authorizing withdrawal of the application subject to the aforesaid conditions. A copy of a proposed order is attached.

Respectfully submitted,

CONNER & WETTERHAHN, P.C.


Troy B. Conner, Jr.
Counsel for the Applicants

March 20, 1984

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

Before Administrative Judges:
John H. Frye, III, Chairman
Dr. Frank F. Hooper
Mr. G.A. Linenberger, Jr.



In the Matter of)

The Cincinnati Gas & Electric)
Company, et al.)

Docket No. 50-358

(Wm. H. Zimmer Nuclear Power)
Station))

ORDER
(Granting Motion to Withdraw Application
and Terminate Proceeding)

On January 27, 1984, the Applicants informed the Commission that they would not pursue their application for an operating license for the Wm. H. Zimmer Nuclear Power Station. Accordingly, Applicants moved this Board on March __, 1984 to authorize the withdrawal of the application and to terminate the proceeding, advising us that the application may be dismissed with prejudice because Applicants do not intend to use the Zimmer site in the future for any nuclear facility.

The Applicants state that the existing nuclear steam supply system will be rendered incapable of operation. All fuel will be removed from the site not later than August 31, 1984.

Applicants state that the balance of the plant will be used to the extent possible as part of a new fossil electric generating plant. Accordingly, there will be no change in the fundamental character of the Zimmer site as one for the generation of electric power.

Because the Applicants have agreed to dismissal of the application with prejudice as stated below, it is hereby ORDERED this _____ day of _____, 1984:

1. That Applicants' request for withdrawal of their application and for termination of the proceeding for an operating license for the Wm H. Zimmer Nuclear Power Station is granted, subject to the following conditions:

- A. Dismissal is with prejudice to future reapplication by the Applicants for the construction and operation of any nuclear power facility at the same site;
- B. All fuel must be removed from the site not later than August 31, 1984;
- C. The existing nuclear steam supply system must be rendered incapable of operation;
- D. The balance of the plant may be used to the extent possible as part of a new fossil electric generating plant.

2. That this Order shall be effective immediately upon issuance and shall constitute the final action of the Board upon the application herein. The withdrawal, pursuant to 10 C.F.R. §2.107, shall be final upon the Regulatory Staff's determination that conditions 1-B and C have been carried out.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD

John H. Frye, Chairman



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

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 "Motion for Withdrawal of Application," and accompanying proposed "Order" dated March 20, 1984 in the captioned matter, have been served upon the following by deposit in the United States mail this 20th day of March, 1984:

Judge John H. Frye, III
Chairman, Atomic Safety and
Licensing Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Dr. Frank F. Hooper
Chairman of Resource
Ecology Program
School of Natural
Resources
University of Michigan
Ann Arbor, MI 48104

Mr. G.A. Linenberger, Jr.
Administrative Judge
1005 Calle Largo
Sante Fe, NM 87501

Chairman, Atomic Safety
and Licensing Appeal
Board Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Chairman, Atomic Safety
and Licensing Board
Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Docketing and Service
Branch
Office of the Secretary
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Charles A. Barth, Esq.
Counsel for the NRC Staff
Office of the Executive
Legal Director
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Deborah Faber Webb, Esq.
7967 Alexandria Pike
Alexandria, Kentucky 41001

Andrew B. Dennison, Esq.
Attorney at Law
200 Main Street
Batavia, Ohio 45103

Lynne Bernabei, Esq.
Government Accountability
Project/IPS
1901 Q Street, N.W.
Washington, D.C. 20009

John D. Woliver, Esq.
Clermont County
Community Council
Box 181
Batavia, Ohio 45103

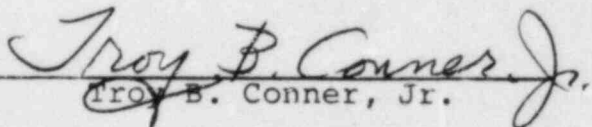
Brian Cassidy, Esq.
Regional Counsel
Federal Emergency
Management Agency
Region I
John W. McCormick POCH
Boston, MA 02109

David K. Martin, Esq.
Assistant Attorney General
Acting Director
Division of
Environmental Law
Office of Attorney General
209 St. Clair Street
Frankfort, Kentucky 40601

George E. Pattison, Esq.
Prosecuting Attorney of
Clermont County, Ohio
462 Main Street
Batavia, Ohio 45103

William J. Moran, Esq.
Vice President and
General Counsel
The Cincinnati Gas &
Electric Company
P.O. Box 960
Cincinnati, Ohio 45201

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


Troy B. Conner, Jr.

cc: Robert F. Warnick
Director, Enforcement
and Investigation
NRC Region III
799 Roosevelt Road
Glen Ellyn, Illinois 60137