

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

IN THE MATTER OF)	
)	
CONSUMERS POWER COMPANY)	Docket No. 50-155
)	
(Big Rock Point Nuclear)	
Plant))	

MOTION FOR LEAVE TO FILE PLEADING
OUT OF TIME

Consumers Power Company ("Licensee") moves this Licensing Board to enter an Order granting Licensee leave to file "Licensee's Response To Contentions Of John Patrick O'Neill II" two days beyond the time set by the Licensing Board. In support of the motion, the Licensee states:

1. The Licensing Board's Order of November 5, 1979 established November 29, 1979 as the date within which responses were to be filed to the statements of contentions submitted by Christa-Maria and Mr. O'Neill. The Licensee submitted its response on November 29 to the contentions filed by Christa-Maria. See "Licensee's Response To Contentions Of Christa-Maris."

2. On November 20, 1979, Mr. O'Neill filed a restatement of his contentions, which because of the Thanksgiving holiday was not received by counsel until Monday,

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November 26, -- three days before the deadline imposed by the Licensing Board's Order of November 5. Mr. O'Neill's restatement of his eight contentions and their many facets caused the Licensee to rewrite completely its draft response which was based on the original statement of contentions filed by Mr. O'Neill on October 30, 1979. This was so because his November 20 document contained revisions to the original statement of contentions, and more importantly, the restatement contained contentions which were offered for the first time. (See, e.g., Contention II.E.).

3. Licensee's ability to file a proper response to Mr. O'Neill's contentions was further delayed when it became aware of a letter sent by the NRC Staff to the Licensee on November 27, 1979. (See letter from Mr. Ziemann to Mr. Bixel which is attached to Licensee's response to the O'Neill contentions.) This letter was received by counsel at 5:00 p.m., November 27.

4. In view of the foregoing late occurring events, additional time was needed to discuss these matters with the appropriate members of Licensee's organization and to rewrite the response to the O'Neill contentions.

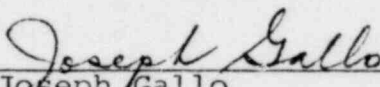
5. In addition to mailing a copy of Licensee's response to all persons on the service list this date, hand delivery will be made on the Licensing Board and counsel for

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the NRC Staff and Christa-Maria early the morning of December 3. Hand delivery will be made on Mr. O'Neill as soon as possible but no later than the afternoon of December 4 when counsel expects to meet with him in Petosky, Michigan. Thus, the grant of this motion will not prejudice any party to the proceeding.

For good cause shown, the motion should be granted.

Respectfully submitted,



Joseph Gallo
One of the Attorneys for
Consumers Power Company

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Dated: December 1, 1979

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