



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

JUL 3 1980

DOCKET NOS. 50-329  
50-330

Judd L. Bacon, Esquire  
Managing Attorney  
Consumers Power Company  
212 West Michigan Avenue  
Jackson, Michigan 49201

Dear Mr. Bacon:

Your letter dated April 3, 1980, provided your reasons for objecting to the fees requested in my letters dated February 11 and March 10, 1980. The fees are for review of Consumers Power Company's (CPC) December 19, 1979 application for amendment to the construction permits for Midland Unit Nos. 1 and 2 which you feel resulted from the Commission's Order dated December 6, 1979.

Upon further review and consideration of the issues in this case, we find that while the Order of December 6, 1979 prohibits certain construction related activities because CPC had not provided certain requested technical data, the language in this Order referring to the submittal of an application for an amendment and the issuance of the construction permit amendment(s) only sets forth the time frame during which the prohibitions would be in effect, but does not directly order CPC to file the application for the amendment. Since CPC was not required by the Order to file the application, any construction permit amendments to be issued by the Commission's staff (stemming from the application) are not seen as resulting from the December 6, 1979 Order.

Had CPC initially taken the proper course of action and sought and received an amendment to each permit, fees would have been required. The Order did not serve to exempt CPC from such requirement. The Order cited CPC for being in violation of their permits for failing, among other things, to seek prior Commission approval of the remedial actions they desired to take concerning the soil activities for safety-related structures and systems founded in and on plant material that does not conform to that described in the FSAR and approved in the current construction permits for the Midland units.

Based on the above, CPC is not exempt from the fee requirements of 10 CFR 170.22 for the December 19, 1979 application for the construction permit amendments. As such, it is requested that CPC remit the sum of \$12,700 to this office within fifteen days after your receipt of this letter.

Sincerely,

*William O. Miller*

William O. Miller, Chief  
License Fee Management Branch  
Office of Administration

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

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