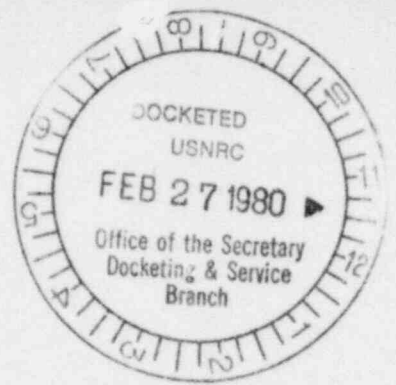


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ADMINISTRATIVE LAW JUDGE



In the Matter of)
) Docket No. 50-255
CONSUMERS POWER COMPANY) License No. DPR-20
(Palisades Nuclear Power Facility))

CONSUMERS POWER COMPANY'S
FIRST ROUND OF INTERROGATORIES AND
REQUEST FOR THE PRODUCTION OF DOCUMENTS
BY THE NUCLEAR REGULATORY COMMISSION

Consumers Power Company ("CPCo") hereby requests the Nuclear Regulatory Commission ("NRC" or "Commission"), or the appropriate NRC personnel, to answer separately and fully in writing, under oath or affirmation, each of the following Interrogatories and produce the documents requested herein within 30 days of service.

INSTRUCTIONS AND DEFINITIONS

Unless otherwise indicated:

1. "CPCo violations" refers to the asserted violations by CPCo of the technical specifications of License No. DPR-20 set forth in the November 9, 1979 "Notice of Violation" issued by the NRC to CPCo.
2. "CPCo civil penalties" refers to the penalties imposed upon CPCo in the NRC December 20, 1979 "Order Imposing Civil Penalties."
3. "NRC personnel" shall mean the "Commission" as defined in 10 CFR §2.4(e) and "NRC Personnel" as defined in 10 CFR §2.4(p).

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4. Information sought in these Interrogatories shall include information within the knowledge, possession, control or access of any NRC personnel, as defined above.
5. Whenever appropriate, the singular form of a word shall be interpreted as plural and the masculine gender shall be deemed to include the feminine.
6. As used in these Interrogatories, the term "and," as well as "or," shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these Interrogatories any information which might otherwise be construed to be outside their scope.
7. As used in these Interrogatories, the term "date" means the exact day, month and year, if known, or, if not known, your best approximation thereof. Exact dates shall be given in all answers except where it is explicitly indicated that an approximate date may be given.
8. As used in these Interrogatories, the term "person" includes, without limiting the generality of its meaning, every natural person, corporate entity, partnership, association, governmental body or agency.
9. As used in these Interrogatories, the term "identification or a person or entity" includes stating his, her or its full name, his or her most recent home address and telephone number, his, her or its most recent known business address and telephone number, his or her present position, and his, her or its prior connection

or association with any party to this proceeding.

10. As used in these Interrogatories, the term "document" includes, without limiting the generality of its meaning, all originals or copies where originals are unavailable and non-identical copies (whether different from originals by reason of notation made on such copies or otherwise) of all written, recorded or graphic matter, however produced or reproduced, whether or not now in existence, of correspondence, telegrams, notes, transcripts or sound recordings of any type of conversation, meeting or conference, minutes of meetings, memoranda, inter-office communications, studies, analyses, reports, summaries and results of investigations and tests, reviews, contracts, agreements, photographs, working papers, statistical records, computer data, stenographers' notebooks, manuals, directives, bulletins, desk calendars, appointment books, diaries, maps, logs or papers similar to any of the foregoing, however denominated.
11. As used in these Interrogatories, the term "identification of a document" includes stating (a) the nature of the document, (b) the date, if any, appearing thereon, (c) the date, if known, on which the document was prepared, (d) the title of the document, (e) the general subject matter of the document, (f) the number of pages comprising the document, (g) the identity of each person who wrote, dictated or otherwise participated in

the preparation of the document, (h) the identity of each person who signed or initialed the document, (i) the identity of each person to whom the document was addressed, (j) the identity of each person who received the document or reviewed it, (k) the location of the document, and (l) the identity of each person having custody of the document. Identification of a document includes identifying all documents known or believed to exist, whether or not in the custody of NRC personnel.

12. If NRC personnel had at any time possession or control of a document called for under this request, and if such document has been lost, destroyed, purged or is not presently in the possession or control of NRC personnel, describe the document, the date of its loss, destruction, purge or separation from possession or control, and the circumstances surrounding its loss, destruction, purge or separation from possession or control.
13. With respect to the identification of documents, identify all documents which relate to these documents and all persons who have knowledge of these documents.
14. As used in these Interrogatories, the term "communication" means any contact, oral or written, formal or informal, at any time or place, and under any circumstances whatsoever, whereby information of any nature was transmitted or transferred.

15. As used in these Interrogatories, the term "identification of a communication" includes stating (a) the date and place of the communication, (b) the identity of each person who was present at, participated in, or has knowledge of the communication, (c) the type of communication (e.g., oral or written), (d) the substance of the communication and (e) the identity of each document reflecting or comprising the communication. If an Interrogatory requests that a communication be described, and such communication is contained in a verbatim transcript, it is sufficient to state that the transcript is being provided, provided you mark the transcript with an identification number and said number is provided in the response to the Interrogatory.
16. As used in these Interrogatories, the term "NRC policy" includes, without limiting the generality of its meaning, the general objectives of the policy, as well as any specific procedures and criteria established for the purpose of implementing the policy, whether or not said procedures and criteria were communicated orally or in writing, and whether or not said procedures and criteria were made available to the public or licensees.
17. If any of the information contained in the answers to these Interrogatories is not within the personal knowledge of the person signing the Interrogatory, so state and identify each person, document and communication on

which he relies for the information contained in answers not based solely on his personal knowledge.

18. If you cannot answer any portion of any of the following Interrogatories in full, after exercising diligence to secure the information to do so, so state and answer to the extent possible, specifying your inability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portions.
19. If you claim privilege as to any communication as to which information is requested by these Interrogatories or as to any answer requested by these Interrogatories, specify the privilege claimed, the communication and/or answer as to which that claim is made, the parties to the communication, the topic discussed in the communication and the basis for your claim.
20. These Interrogatories are continuing interrogatories and require supplemental answers if you obtain further information with respect to the same between the date your answers are served and the entry of judgment.

INTERROGATORIES AND REQUEST FOR
THE PRODUCTION OF DOCUMENTS

1. Identify all persons who participated in the preparation of the answers, or any portion thereof, to these Interrogatories.
2. This Interrogatory refers to the Notice of Violation attached as Appendix A to the letter dated November 9, 1979, from Mr. Victor Stello of the NRC to Mr. R. B. DeWitt of CPCo.

- (a) Describe all of the facts on which the NRC relies to support its allegation in Item 1 that the manual isolation valves in the containment exhaust bypass line were in a locked-open condition during the period from April 1978 to September 1979.
- (i) identify each person within the NRC who has knowledge of any of the facts identified in response to 2(a).
 - (ii) identify every document which relates or refers to the facts identified in response to 2(a).
- (b) Identify each person within the NRC who recommended or suggested a categorization or who actually categorized the alleged Item 1 of non-compliance as a violation, infraction or deficiency and identify the category chosen by each person.
- (i) describe the factors or data considered by each person identified in response to 2(b). Such a description should include how that factor or data influenced the categorization.
 - (ii) identify every document which relates or refers to the items described in response to 2(b)(i).
- (c) Identify each person within the NRC who recommended or suggested a categorization or who actually categorized the alleged Item 1 of non-compliance as a continuing item of non-compliance or as a

single item of noncompliance and identify the category chosen by each person.

- (i) describe the factors or data considered by each person identified in response to 2(c). Such a description should include how that factor or data influenced the categorization.
- (ii) identify every document which relates or refers to the items described in response to 2(c)(i).

(d) If one or more persons in the Office of Inspection and Enforcement, Region III, submitted a recommendation regarding the assessment of the CPCo civil penalties, state whether the action taken by Headquarters differs from that recommended by the Regional Office.

- (i) identify every document which relates or refers to the recommendation identified in response to 2(c).
- (ii) if Headquarters' action differs from that recommended by the Regional Office, state whether the Regional Office was informed of the bases for the change.
- (iii) if the Regional Office was so informed, identify the communication in which the Regional Office was informed of the bases for the change.

(e) For each of the factors described in response to 2(b)(i) which depended on the calculation or estimation of potential radiation levels or postulated releases of radioactive materials, describe the accident or other incident postulated to have led to such radiation level or release of radioactivity.

(i) describe all of the calculations of radiation levels or releases and all of the assumptions which influence the calculation for each potential radiation level or release identified in 2(e).

(ii) identify each document which relates or refers to the items described in response to 2(e) and 2(e)(i).

(f) Provide each document identified in response to 2(a)(ii), 2(b)(ii), 2(c)(ii), 2(d)(iii) and 2(e)(ii).

3. Describe each and every step actually taken within the NRC in arriving at any preliminary determination regarding the CPCo violations and the imposition of the CPCo civil penalties.

(a) Identify each person who actually participated in or provided data regarding the steps described in response to 3.

(b) Identify each document which relates or refers to the items described in response to 3.

- (c) Provide each document identified in response to 3(b).
- 4. Describe each and every step actually taken within the NRC in arriving at any final determination regarding the CPCo violations and the imposition of the CPCo civil penalties.
 - (a) Identify each person who actually participated in or provided data regarding the steps described in response to 4.
 - (b) Identify each document which relates or refers to the items described in response to 4.
 - (c) Provide each document identified in response to 4(b).
- 5. Identify each communication among NRC personnel or among NRC personnel and third parties wherein the CPCo violation or the imposition of the CPCo civil penalties was discussed.
 - (a) If the communication consists of a written document or is contained in a verbatim transcript, identify said document or transcript.
 - (b) Provide the document or transcript identified in response to 5(a).
- 6. State whether the current NRC policy concerning the classification of items of non-compliance as deficiencies, infractions or violations differs in any way from the original policy adopted following to the

enactment of §234 of the Atomic Energy Act of 1954, as amended.

(a) If the policy adopted following the enactment of §234 has not been altered, modified or amended in any manner, provide a detailed description of said policy.

(i) identify all documents which relate or refer to the NRC policy regarding the classification of items of non-compliance as deficiencies, infractions or violations.

(ii) provide each document identified in the response to 6(a)(i).

(b) If the policy has been altered or modified in any way:

(i) provide a detailed description of the original NRC policy adopted following the enactment of §234.

(ii) provide a detailed description of each change in policy concerning the NRC classification of items of non-compliance as deficiencies, infractions or violations which occurred since the original policy was adopted following the enactment of §234. This description should include the dates the change of policy became effective, identification of the persons responsible for the change, a discussion of each of the factors which

influenced the change and a discussion of how NRC licensees were notified, if at all, of each change in policy.

(iii) identify each document which relates or refers to the policy or change in policy described in 6(b)(i) and 6(b)(ii).

(iv) provide each document identified in response to 6(b)(iii).

7. State whether the current NRC policy concerning the classification of items of non-compliance as "continuing" items of non-compliance, as that term is used in §234 of the Atomic Energy Act of 1954, as amended, differs in any way from the original policy adopted following the enactment of §234.

(a) If the policy adopted following the enactment of §234 has not been altered, modified or amended in any manner, provide a detailed description of said policy.

(i) identify all documents which relate or refer to the NRC policy regarding continuing items of non-compliance.

(ii) provide each document identified in response to 7(a)(i).

(b) If the policy has been altered or modified in any way:

(i) provide a detailed description of the policy adopted following the enactment of §234.

(ii) provide a detailed description of each change in policy concerning continuing items of non-compliance which occurred since the original policy was adopted following the enactment of §234. This description should include the dates the change of policy became effective, identification of the persons responsible for the change, a discussion of each of the factors which influenced the change and a discussion of how NRC licensees were notified, if at all, of each change in policy.

(iii) identify each document which relates or refers to the policy or change in policy described in 7(b).

(iv) provide each document identified in response to 7(b)(iii).

8. State whether the current NRC policy concerning the standards governing the imposition of civil penalties and the amount of said penalties differs in any way from the policy adopted following the enactment of §234.

(a) If the policy adopted following the enactment of §234 has not been modified, altered or amended in any manner, provide a detailed description of said policy.

(i) identify all documents which relate or refer to the NRC policy described in response to 8(a).

(ii) provide each document identified in response to 8(a)(i).

(b) If the policy has been altered or modified in any way:

(i) provide a detailed description of the policy in effect at the time §234 became effective.

(ii) provide a detailed description of each change in policy concerning the standards governing the imposition of civil penalties and the amount of said penalties since the original policy was adopted following the enactment of §234. This description should include the dates the change of policy became effective, the persons responsible for the change, a discussion of each of the factors which influenced the change and a discussion of how NRC licensees were notified, if at all, of each change in policy.

(iii) identify each document which relates or refers to the policy or change in policy described in 8(b)(i) and 8(b)(ii).

(iv) provide each document identified in response to 8(b)(iii).

9. This Interrogatory refers to the statement made by Dr. Hendrie during the course of the November 9, 1979 Press Conference announcing the imposition of the CPCo

civil penalty that criticism had been leveled at the NRC with respect to its civil penalty practices

- (a) Identify each communication wherein the criticism to which Dr. Hendrie was referring is contained.
 - (b) Identify each document which relates or refers to the communication identified in response to 9(a).
 - (c) Provide each document identified in response to 9(b).
10. Identify each communication of a criticism concerning the NRC's use of civil penalties to enforce the regulations governing the construction and question of commercial nuclear facilities and the possession, use and disposal of nuclear materials, other than those identified in response to 9.
- (a) Identify each document which relates or refers to the communication identified in response to 10.
 - (b) Provide each document identified in response to 10(a).

SPECIAL INSTRUCTIONS WITH RESPECT
TO INTERROGATORY 10

In responding to Interrogatory 10, please do not include in your response any limited appearance statements which may have been made during the course of NRC licensing proceedings unless one of the Commissioners was present at such hearing.

11. This Interrogatory refers to the statement made by Dr. Hendrie during the course of the November 9, 1979 Press Conference, at page 3 of the transcript, that the Commission has requested that Congress authorize the imposition of more severe civil penalties than are currently authorized.

(a) Describe in detail the content of the Commission's request, including the factors which influenced said request.

(b) Identify each communication which relates or refers to the Commission's request.

(c) Identify each document which refers or relates to the communication identified in response to 11(b).

(d) Provide each document identified in response to 11(c).

12. For each instance in which the NRC or any NRC personnel was notified or otherwise became aware of an incident in which containment isolation was violated or an incident constituting a violation of containment integrity (as that term is used in the second line of the letter dated November 9, 1979, from Mr. Victor Stello of the NRC to Mr. R. B. DeWitt of Consumers Power Company) at any utilization facility (as defined in 10 CFR §50.2(b)) provide the following information:

(a) The name of the licensee of the utilization facility and the name of the facility;

- (b) The docket number assigned by the NRC to the facility;
- (c) The manner in which the NRC or NRC personnel learned of the incident and the date thereof;
- (d) The dates on which it is believed that containment isolation or containment integrity was violated;
- (e) A description of the incident;
- (f) The sanctions recommended by personnel in the appropriate Regional Office of the Office of Inspection and Enforcement;
- (g) The sanctions recommended by personnel in the NRC Office of Inspection and Enforcement;
- (h) The sanctions ultimately imposed;
- (i) The reasons for imposing said sanctions or, if no sanctions were imposed, the reason for not imposing sanctions;
- (j) identify each document which related or refers to the instances identified in response to 12(a)-(i);
- (k) provide each document identified in response to 12(j).

13. Identify all items of non-compliance at any utilization facility which have come to the attention of the NRC or any NRC personnel and which are of similar severity* to the breach of containment integrity for which Consumers

* In this context, severity does not refer to the duration that the item of non-compliance existed, but rather its significance at the time it existed.

Power Company was cited by providing for each such instance the following information:

- (a) The name of the licensee of the utilization facility and the name of the facility;
- (b) The docket number assigned by the NRC to the facility;
- (c) The manner in which the NRC or any NRC personnel learned of the incident and the date thereof;
- (d) The dates on which it is believed by the NRC the item of non-compliance existed;
- (e) A description of the incident;
- (f) The sanctions recommended by the appropriate Regional Office of the Office of Inspection and Enforcement;
- (g) The sanctions recommended by the NRC Office of Inspection and Enforcement;
- (h) The sanctions ultimately imposed; and
- (i) The reasons for imposing said sanctions or, if no sanctions were imposed, the reason for not imposing sanctions.

14. For each instance in which any NRC personnel categorized, as a preliminary or final matter, an item of non-compliance by any licensee of a production facility or any utilization facility as a violation, infraction or deficiency and based this determination, in whole or in part, on whether the item of non-compliance had a

"substantial potential for . . . contributing or aggravating . . . an incident or occurrence [such as] (b) Radiation levels in unrestricted areas which exceed 50 times the regulatory limits . . .," provide the following information:

- (a) Identify the instance by providing:
 - (i) the name of the licensee and the docket number and name of the facility at which the item of non-compliance occurred;
 - (ii) the date or dates on which the item of non-compliance occurred;
 - (iii) a brief description of the item of non-compliance;
 - (iv) the category (i.e., violation, infraction or deficiency) into which the item of non-compliance was initially placed by the first NRC personnel who categorized the item of non-compliance and the date on which this categorization occurred, and the name and position of the person so categorizing the item of non-compliance;
 - (v) the sanction or other action, if any, initially recommended for the item of non-compliance, the name and position of the person making that recommendation and the date on which it was made;

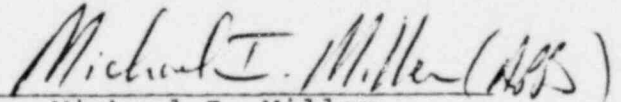
- (vi) the category of non-compliance into which the item of non-compliance was ultimately placed;
- (vii) the sanction imposed or other action ultimately taken by the NRC;
- (viii) whether at any time during the NRC's internal review any NRC personnel recommended that the item of non-compliance be placed into a category other than that into which it was initially placed or recommended a sanction or course of action other than the one originally recommended; and
- (ix) if the answer to (viii), above, is affirmative, provide the following additional information:
 - a) the name and position of the person making such a recommendation and the date such recommendation was made;
 - b) the reasons given for such recommendation;
 - c) whether the recommendation was forwarded to any subsequent stage of internal review; and
 - d) the action taken on the recommendation, the name and position of the person taking such action and the reasons given for the action taken.

- (b) For each such instance, identify the "regulatory limits" (as that term is used in the NRC Office of Inspection and Enforcement "Inspection and Enforcement Manual") used for purposes of the categorization.
 - (c) For each such instance, list all of the assumptions used in the calculation or estimate of potential radiation levels. Your list should include, without limitation, the accident conditions hypothesized and an explicit statement of how the item of non-compliance would cause, contribute to or aggravate the incident.
 - (d) For each such instance, identify the potential radiation level estimated or calculated.
15. During the course of the November 9, 1979 Press Conference, Mr. Stello indicated that a copy of the Order and the proposed imposition of the civil penalty would be transmitted to the executive officers of each of the operating utilities.
- (a) List each instance in which the NRC has transmitted an order imposing civil penalties or any other sanction (e.g., show cause order) to executive officers of other operating utilities.
 - (b) Provide the transmittal letter and order which was transmitted to the executive officers of other operating utilities.

16. List each instance in which a press conference was held, other than in conjunction with the CPCo fine which is the subject of these proceedings, to announce that NRC personnel had determined that an NRC licensee had committed a violation or other item of non-compliance or that NRC personnel had proposed to levy a civil penalty on the licensee for said item of non-compliance.
- (a) With respect to each instance listed above, identify the NRC personnel in attendance at the press conference, the date of such conference and describe the content of said conference.
 - (b) If there is a verbatim transcript of the press conference identified above, please provide said transcript.
17. Identify any communications between NRC personnel which relate or refer to CPCo's performance as an NRC licensee with respect to CPCo's compliance or lack of compliance with NRC regulatory requirements.
- (a) Identify any such communication relating to the imposition of the CPCo civil penalties of December 20, 1979.
 - (b) Identify any documents which relate or refer to the communications identified in response to 17.

(c) Provide all documents identified in response to
17(b).

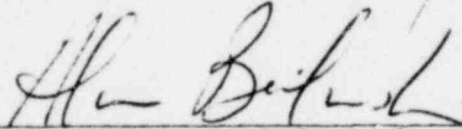
DATED: February 21, 1980



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