

50-329A
50-330A

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

In the Matter of)
)
CONSUMERS POWER COMPANY) Docket Nos. 50-329A
) 50-330A
(Midland Plant, Units 1 and 2))

SECOND PREHEARING CONFERENCE ORDER OF THE
ATOMIC SAFETY AND LICENSING BOARD

(November 3, 1972)

The matter having come before this Atomic Safety and Licensing Board (Board) at a second prehearing conference held on October 25, 1972, and counsel for all the parties having been present and participating in said prehearing conference, the following action was taken:

A. DISCOVERY

1. Discovery by the parties in this proceeding will be completed no later than February 16, 1973.

2. If there is any objection to a request for information made by a party under the discovery procedure, such objection will be reduced to writing and submitted to the party seeking the information

THIS DOCUMENT CONTAINS
POOR QUALITY PAGES

8006180 691

M

within five working days. If the objection is found to be unsatisfactory, the party seeking discovery shall forthwith file a motion with the Board. The other parties will have two working days in which to respond after taking into account mailing time allowed under the Rules of Practice. The Board will rule on said motion.

3. The Department of Justice may have two sessions for interrogatories, with the Applicant being required to respond to the first session within thirty (30) days. The time-frame for response to the second session will be decided upon at a future date.

The first session will concern itself with interrogatories relating to the general contentions the Applicant intends to propose at the hearing, including contentions relating to economic principles. The second session of interrogatories would be directed toward facts regarding the planning and operation of Applicant's system, and also with respect to facts dealing with specific conduct on the part of the Applicant in the past.

4. With respect to copies of documents to be furnished the parties under the discovery procedures

adopted in this case, the Board ruled

a. The Applicant will make available clear copies for the opposing parties to review. If a particular copy is not clear and usable, the Applicant will submit the original for inspection by the opposing parties.

b. The Board will not require the Applicant to furnish copies of requested documents free of charge. The Applicant may charge a reasonable fee for copies.

c. The ground rules enunciated in subparagraphs 4.a. and 4.b. are equally applicable to all the other parties to this proceeding.

B. THIRD PREHEARING CONFERENCE

5. A third prehearing conference will be held on or about March 12, 1973. The purpose of this prehearing conference will be to place into the record the documentary evidence that all the parties agree should be received.

If there is any dispute regarding the admissibility of a document, the Board will rule upon the matter at the prehearing conference in accordance with the normal rules of evidence.

6. The submission of documents at the prehearing conference shall be limited to the direct case of each of the parties.

C. HEARING DATE

7. The hearing in this proceeding shall commence on April 16, 1973, and continue through April 19, 1973. It will adjourn and then reconvene on April 23, 1973, and continue through April 27, 1973.

8. If further hearing sessions are needed, the Board will hear arguments in this regard on April 27, 1973.

9. The Board will not deprive any of the parties from presenting a full and complete case unless an unreasonable delay would result therefrom and such delay is caused by the individual party seeking to introduce the evidence.

D. TRIAL BRIEFS

10. A trial brief will be prepared by counsel for each of the parties to this proceeding and will be submitted to the Board in sufficient time to be received by the latter no later than the close of business April 9, 1973. The mailing of such trial

briefs by Friday, April 6, 1973, will satisfy the Board's requirements.

E. MISCELLANEOUS MATTERS

11. The Department of Justice will furnish the Board with copies of the Department's brief to the United States Supreme Court in U. S. v. Otter Tail Power Company.

12. The Applicant will provide the Board with copies of the appeal brief of Otter Tail Power Company to the Supreme Court, as well as any brief that the Federal Power Commission may file in that proceeding.

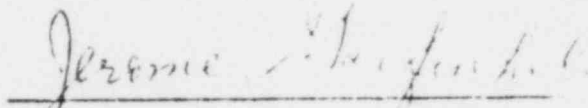
13. The Department of Justice has renewed its earlier motion to compel the production of documents by the Applicant for inspection and copying (motion filed on August 16, 1972). The Applicant has stated that a response to that motion will be forthcoming on October 26, 1972.

14. Applicant has advised that it will file a motion seeking to compel discovery and obtain information from members of the Michigan Municipal Electric Association who have not been named as parties to the proceeding, although the association itself is a party.

The Department of Justice and the Joint Interveners have been given the required time under the Rules of Practice of the Atomic Energy Commission in which to respond to said motion.

IT IS SO ORDERED.

THE ATOMIC SAFETY AND
LICENSING BOARD



Jerome Garfinkel, Chairman

Issued at Washington, D. C.

this 3rd day of November, 1972.

11-3-72

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

In the Matter of
CONSUMERS POWER COMPANY
(Midland Plant, Units 1 and 2)

)
)
)
)
)
)

Docket Nos. 50-329A ✓
50-330A

CERTIFICATE OF SERVICE

I hereby certify that copies of SECOND PREHEARING CONFERENCE ORDER OF THE ATOMIC SAFETY AND LICENSING BOARD dated November 3, 1972, in the captioned matter have been served on the following by deposit in the United States mail, first class or air mail, this 3rd day of November 1972:

Jerome Garfinkel, Esq., Chairman
Atomic Safety and Licensing Board
U. S. Atomic Energy Commission
Washington, D. C. 20545

Hugh K. Clark, Esq.
P. O. Box 127A
Kennedyville, Maryland 21645

Wallace E. Brand, Esq.
U. S. Department of Justice
P. O. Box 7513
Washington, D. C. 20044

David A. Leckie, Esq.
Public Counsel Section
Antitrust Division
Department of Justice
Washington, D. C. 20530

Dr. J. V. Leeds, Jr.
P. O. Box 941
Houston, Texas 77001

Joseph Rutberg, Esq.
Antitrust Counsel
Office of the General Counsel
U. S. Atomic Energy Commission
Washington, D. C. 20545

William Warfield Ross, Esq.
Keith S. Watson, Esq.
Toni K. Golden, Esq.
Wald, Harkrader, Nicholson and Ross
1320 19th Street, N. W.
Washington, D. C. 20036

James F. Fairman, Jr., Esq.
2600 Virginia Avenue, N. W.
Washington, D. C. 20037

Mr. Benjamin H. Vogler
U. S. Atomic Energy Commission
Washington, D. C. 20545

Mr. Abraham Braitman, Chief
Office of Antitrust and Indemnity
Directorate of Licensing
U. S. Atomic Energy Commission
Washington, D. C. 20545

Harold P. Graves, Esq.
Vice President and General Counsel
Consumers Power Company
212 West Michigan Avenue
Jackson, Michigan 49201

Honorable Frank Kelly
Attorney General, State of Michigan
Lansing, Michigan 48913

Joseph J. Saunders, Esq., Chief
Public Counsel and Legislative
Section
Antitrust Division
U. S. Department of Justice
Washington, D. C. 20530

James Carl Pollock, Esq.
Suite 312
2600 Virginia Avenue, N. W.
Washington, D. C. 20037

William T. Clabault, Esq.
Antitrust Division
P. O. Box 7513
Washington, D. C. 20044

May 1964

Office of the Secretary of the Commission

cc: Mr. Garfinkel
Mr. Rutberg
Ms. Wilson
Mr. Braitman
ASLBP
Reg. Files