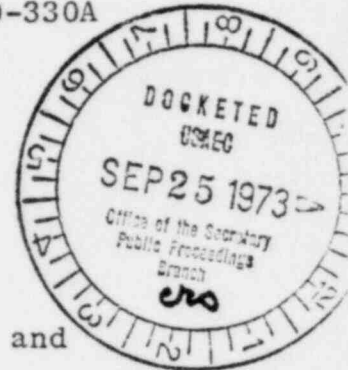


UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

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

Docket Nos. 50-329A
50-330A

ORDER OF THE BOARD REGARDING
DOCUMENTS WITHHELD BY THE
APPLICANT UNDER A CLAIM OF
ATTORNEY-CLIENT PRIVILEGE



In accordance with the instant Atomic Safety and Licensing Board's ruling at the prehearing conference held on September 7, 1973, Counsel for the Applicant, by transmittal letter dated September 10, 1973, forwarded to the Board for in camera inspection all of the documents withheld by the Applicant under a claim of attorney-client privilege. These withheld documents were part of a larger group collected by the Applicant pursuant to the joint request of the Department of Justice, the Regulatory Staff of the Atomic Energy Commission, and the Joint Intervenors, dated July 26, 1972.

After carefully reviewing all of the material withheld on the ground of attorney-client privilege, after carefully considering Applicant's motion on the question and Joint Intervenors' responses thereto, the Board concludes that the documents listed below are outside the purview of the

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attorney-client privilege, are encompassed in the aforementioned joint request, and should be released for inspection and copying by the opposing parties. The Board cites one or more of the following grounds as bases for its determination in this matter: (a) the documents are communications with third parties; (b) the documents are not communications for the purpose of obtaining or providing legal advice; (c) they involve communications with public or governmental bodies; and (d) the documents do not pertain to the work product of counsel in this proceeding.

The documents to be released are as follows:

1. Letter from Judd L. Bacon to Mr. John P. Keusch, dated January 12, 1965; document identified as No. 115.
2. Letter from Judd L. Bacon to Mr. John P. Keusch, dated September 14, 1964; identified as No. 109.
3. Letter from H. P. Graves to Mr. Clifford H. Domke, dated October 7, 1963; identified as No. 129.
4. Memorandum from Robert J. Byers to H. P. G., with attachments; identified as Nos. 142, 144, 143.
5. Memorandum of C. E. Merritt, dated May 19, 1961; identified as No. 165.
6. News Article from Lansing State Journal, October 8, 1967; identified as 553-02 (3).
7. Memorandum by A.B.B. on Ludington Pumped Storage Agreements, dated July 10, 1973; identified on first page by number 535-01 or 72.

8. Memorandum from R. L. Paul to J. B. Falahee, dated August 19, 1968, with attachment; identified as No. 75.
9. Letter from H. P. Graves to Mr. W. J. Mosley, dated October 13, 1967, with attachment; identified as No. 85 or 344-18.
10. Letter from W. Jack Mosley to Mr. H. P. Graves, dated September 27, 1967, with attachment; identified as No. 90 or 344-21.
11. Supplement C-7 (Part A) - "Consumers Power - Detroit Edison Electric Power Pool; document identified as Nos. 769-01 (2) through 769-01 (8).
12. Memorandum to J.B.F., dated December 20, 1960, with attachment; identified by numbers 957-04 (3) through 957-04 (4) or No. 63.
13. Memorandum by J.L.B. on "Quanicassee-Greenwood", dated March 24, 1972; identified as No. 6 or 504-13 through 504-13 (5).
14. Letter from Judd Bacon to John P. Keusch, dated December 23, 1964, with attachment; identified as No. 160 or 338-05 (10) through 338-05 (31).
15. Order of the Michigan Public Service Commission, dated September 27, 1962; identified as 176-02 (2) through 176-02 (7).
16. Memorandum from W. Jack Mosley to Mr. H. P. Graves, dated March 2, 1964, with attachment; identified as No. 125.
17. Letter from The Detroit Edison Company to Mr. H. P. Graves, dated June 9, 1964, with attachments; identified as Nos. 658-01 (292) through 658-01 (297).
18. Letter from W. Jack Mosley to Mr. H. P. Graves, dated May 4, 1973, with attachment; identified as Nos. 123 or 658-01 (337) through 658-01 (340).
19. Letter from W. Jack Mosley to H. P. Graves, dated November 15, 1967; identified as No. 107.

20. Memorandum from E. H. Kaiser to Messrs. J. B. Falahee and A. B. Bass, dated May 7, 1965, with attachment; identified as No. 114.
21. Comments on Proposed Dow Chemical Agreements, drafts of August 24, 1967, with attachment; identified as No. 96 or 629-02 through 629-02 (5).
22. Letter from W. Jack Mosley to Mr. H. P. Graves, dated September 1, 1967, with attachments; identified either as No. 95, or 344-26 through 244-26 (18).
23. Letter from The Detroit Edison Company to Mr. W. J. Mosley, dated June 25, 1968, with attachment; identified as 1057-02 (3) through 1057-02 (8).
24. Order of Michigan Public Service Commission, dated August 1, 1968; identified as 910-15 (2) through 910-15 (16).
25. City of Allegan Electric System Acquisition, Closing Schedule; identified as No. 67.
26. Memorandum from A. B. Bass to H. E. Wall, dated May 26, 1969, with attachment; identified as No. 22.
27. Memorandum of J. L. Bacon, dated January 18, 1969; identified as No. 24.
28. Letter from E. H. Kaiser to Mr. J. B. Falahee, dated December 27, 1967; identified as No. 36, or 355-11 through 355-11 (3).
29. Power Purchase Contracts between Consumer Power Company and Industrial Companies; identified as either No. 4, or 605-03 through 605-03 (24)
30. Letter of Consumers Power Company and The Detroit Edison Company to Secretary of Federal Power Commission, dated July 10, 1970; identified as Nos. 774-02 through 774-02 (8), plus one subsequent, unmarked page.

The material furnished for our review is being returned consistent with the provisions of this Order.

IT IS SO ORDERED.

THE ATOMIC SAFETY AND
LICENSING BOARD

Hugh K. Clark

Hugh K. Clark, Member

J. V. Leeds, Jr.

J. V. Leeds, Jr., Member

Jerome Garfinkel

Jerome Garfinkel, Chairman

Issued at Washington, D. C.

this 25th day of September 1973.

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PLANT NAME: MIDLAND - UNIT 1
MIDLAND - UNIT 2

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