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Board authority under Section 2.740(c) of the Commission Rules of Practice ("Rules"), 10 C.F.R. part 2, as amended (37 F. R. 15127, 15133).

It is further requested that the Board deny the Applicant's motion that oral argument be heard. In support of their request for denial of Applicant's Objection and Motion the Intervenor state:

1. Oral argument is not necessary to resolve the matters raised in the Applicant's Objection and Motion. The Applicant has stated no grounds in support of its motion in request thereof, and the policy expressed in Section 2.730 (c) and (d) of the Commission's Rules contemplates that reply by the moving party or oral argument is not deemed necessary in the disposition of matters raised by motion. By its lengthy submission the Applicant has stated its position and the matters therein have been discussed by counsel for the parties in meetings held on September 8, 1972, September 18, 1972 and October 5, 1972. Furthermore, Applicant has had nearly three months to study the Joint Document Request, and had notice thirty days prior to the second prehearing conference that the Board on October 25th intended

inter alia, to "determine the present status of discovery between the parties."^{*} The Objection and Motion addressing itself to specific matters affecting "the present status of discovery" was served by mail the day immediately following the date when all parties were convened to resolve outstanding questions related to discovery.^{**} Applicant's request that the Board and counsel convene again to hear oral argument affronts the administrative process, is illtimed, and if granted will further delay discovery.

2. The Applicant's objection to Request 10 is without merit. Section 2.741(c) (37 F. R. 15134) provides in pertinent part:

"The request shall set forth the items to be inspected either by individual item or category, and describe each item or category with reasonable particularity."

Request 10 as propounded conforms to this instruction. Lacking clairvoyance, and without benefit of a list describing the contents of such files the request sets

^{*}/ Notice and Order for Second Prehearing Conference, September 25, 1972.

^{**}/ It should be noted, also, the Applicant simultaneously served on the Intervenor a Motion to Compel Discovery from members of Michigan Municipal Electric Association, despite notice by letter dated October 11, 1972 to counsel and the Boards of its intention to do so, submission was likewise on October 26th.

forth a description of the item (e.g., files identified by customer name) or category (e.g., communication with officials, managers of the Applicant's wholesale customers; analysis of customer system operation). The characterization of the documents sought and identification of type of file (item) believed to contain such documentation has been made with reasonable particularity. Applicant sells electricity for resale (wholesale sales) to only seventeen electric systems, and interchanges power with the municipal electric systems of Holland and Lansing.^{*} Attached as Appendix A hereto are copies of documents, received by Intervenor from the Applicant, which are expected to reside in the files described or categorized by Request 10 and illustrative in part of their contents. Moreover, the totality of contents of each such file requested constitutes the context in which the documents have been prepared and filed, and can be expected to contain the memoranda or communications underlying and relating to such documents. The course of events, decisions and policies of the Applicant

^{*}/ Consumers Power Company Annual Report 1971, FPC Form No. 1, pp. 412-413, 424A.

affecting these wholesale customers are embodied in such files. The information contained therein is their "raison d'etre." It is precisely this "day-to-day contact that such customers have had with the Applicant," and which the Applicant asserts is wholly irrelevant (Applicant Objection and Motion, p. 14) that will form the basis for the Board's determination of the relevant matters in controversy. ^{*}/ The Applicant at page 14 of its Objection and Motion cites Schwimmer v. United States, 232 F.2d 855 (8th Cir. 1956) in support of its contention that the Discoverer's request is impermissible. The Discoverers are not on a fishing expedition. That often used characterization in its ordinary usage describes an attempt to discover original grounds for initiating a proceeding or, alternatively, to broaden the scope of a proceeding underway. Such is not the case with Request 10. The documents contained in the files described, their categorization and the nature of such

^{*}/ "C. RELEVANT MATTERS IN CONTROVERSY

"6. The basic thrust of Justice's case is that (a) applicant has the power to grant or deny access to coordination; (b) applicant has used this power in an anticompetitive fashion against the smaller utility systems; (c) applicant's said use of its power has brought into existence a situation inconsistent with the antitrust laws, which situation would be maintained by activities under the licenses that applicant seeks. Neither the intervening parties nor the Atomic Energy Commission's regulatory staff enlarge this scope. Hence, the scope of the relevant matters in controversy is as herein outlined." Prehearing Conference Order, August 7, 1972, p. 3.

materials illustrated in part by Appendix A hereto make their discovery essential to this proceeding. It is not "open-ended and undirected invasion of privacy" - an unreasonable search and seizure objected to in the Schwimmer case. As the Court therein noted the test regarding such discovery is "whether the thing done or attempted to be done, in the sum of its form and scope, nature, incident and effect, impresses as being fundamentally unfair or unreasonable in the specific situation" (232 F.2d at 861). The Court further noted that discovery of records and files is not properly characterized as unreasonable when it is apparent that the production sought "is not an attempt to obtain a sea for the conducting of a general fishing expedition or . . . to make possible an exploratory investigation whose purposes and limits can be only determined as it proceeds.'" The Board's Order dated August 7, 1972 stating the matters in controversy precludes this result. (See footnote, page 5, supra).

3. The Applicant's objection that the Request 2 is "improper since it constitutes no more than a fishing expedition" (Applicant's Objection and Motion, p. 2) is

devoid of substance and premised upon unsound reasoning. ^{*}/

The purpose of Request 2 is to obtain from the Applicant documents showing or describing the file and subject classifications utilized in the Applicant's corporate operations to better equip the Department of Justice, the Commission Staff and the Intervenors to comply with the Board's direction for specificity in requesting documents and in formulating interrogatories throughout the course of discovery. Rather than a "fishing expedition" this is a relevant and reasonable request which, if produced for inspection either at the Company's offices in Michigan or at their counsel's offices in Washington, would be employed by counsel to reduce the burden on all parties. Some exploration or fishing necessarily is inherent and entitled to exist in all documentary production (See Schwimmer v. United States, 232 F.2d at 862, 863). ^{**}/ The production

^{*}/ The test of Request 2 is:

"File indexes and documents describing the filing system utilized by the Company, its departments, divisions and subunits, pertaining to active, inactive or stored files and records."

^{**}/ On this point the Court in Schwimmer observed:

". . . . [A] grand jury has no catalogue of what books and papers exist and are involved in a situation with which it is attempting to deal" (232 F.2d at 862).

of indexes and related documents can facilitate discovery.

Section 2.740 of 10 C.F.R., Part 2, states at paragraph (b)(1):

"Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the proceeding"
(Emphasis added).

Section 2.741 of 10 C.F.R., Part 2 states in part at paragraphs (a) and (a)(1):

"(a) Any party may serve on any other party a request to:

"(1) Produce and permit the party making the request, or a person acting on his behalf, to inspect and copy any designated documents . . . which are in the possession, custody or control of the party upon whom the request is served;"
(Emphasis added).

Applicant's objections to this request is based solely on the claim that it is an "open ended and undirected invasion of the privacy of Applicant's filing system" and further that it is "an effort to 'fish' for additional issues or evidence" (page 4). The request does not seek to uncover new issues, but rather to obtain information relevant to the proceeding -- the existence, custody and location of documents and identity of persons having knowledge of discoverable matter. (Rules, Section 2.740(b)(1)). If the Applicant's claims were permitted to set the standards for discovery proceedings there would be none. A request to

examine file indexes is not an invasion of the files and compliance with the request does not preclude the Applicant from raising valid objections to any subsequent requests for production, based upon such information as may be contained in the indexes, which in its view reach privileged matters or which may be irrelevant to the issues of this proceeding.

The Company's fear that an examination of file indexes might produce additional issues is baseless in view of these guide lines established by the Board. The Intervenor respectfully request the Board to compel the Company to produce the requested indexes for inspection, and copying if required, at a location and time mutually convenient to the parties pursuant to Section 2.740(f) of 10 C.F.R., Part 2.

4. The Intervenor oppose the Applicant's request that Requests 5(d), 5(e) and 5(i) be denied. It is contended that issuance of construction permits for nuclear generating and their operation has "absolutely no operating or other relationship to Applicant's gas business." (Applicant's Objection and Motion, p. 12). This assertion misses the mark. Consumers Power Company, deriving nearly half its

revenues from natural gas sales stands as a major energy supplier in Michigan -- natural gas and electricity. To the extent that natural gas sales are made to other electric utilities for use as boiler fuel in their electric generating plants, which other utilities also purchase electricity for resale from Consumers (Request 5(d)), the interrelationship between these natural gas sales and practices or policies underlying such gas sales and the sale of electricity in bulk is evident. The common supplier (of both gas for generating electricity and electricity for resale) is in a market position to exercise control over both sources of complementary energy required by its customer.

Request 5(e), likewise, is relevant to the matter of what control the Applicant can, has and does exercise over an electric utility selling electricity at retail in competition with Consumers' retail gas sales, especially where Consumers may sell electricity at wholesale to such competitor in the retail energy market. In this instance, Consumers' position is as a marketer of wholesale electric energy to an electric energy retailer in areas where Consumers simultaneously sells natural gas at retail.

Obviously, arrangements for and the cost of bulk electric power which will be resold at retail in competition with natural gas sales by Consumers can and may well involve policy determinations reflecting on the retail gas market served by Consumers.

Discussion among counsel on these matters attempted to resolve this controversy by restricting the review required of Applicant to those files or documents which are most reasonably expected to set forth policy and sales practices regarding gas operations in a company which supplies both electricity and natural gas. The Intervenor's do not seek engineering, operating or customer billing information pertaining to the Applicant's gas business.

5. The Intervenor's oppose Applicant's request for denial of discovery pertaining to "Applicant's Political Activity." The objections to the production of documents as itemized in the Joint Requests: 3(e); 5(f)(2)(ii); 5(f)(2)(iii); 5(k); 10(e); 10(f) and 22 are based on the erroneous characterization -- political activity. (Applicant's Objection and Motion, pp. 4-9). In stating its generalized objections the Applicant seeks to raise the specter of a

"chill" to its constitutionally protected First Amendment rights by contending that discovery of such activities is immune from this antitrust proceeding under the Noerr-Pennington doctrine. This position is not well taken. The Joint Request for documentary evidence, which is fully within the ambit of the discovery rules, and this proceeding has not been initiated to seek injunction of activities as described by Noerr or to determine whether these Consumers Power activities were illegal as defined by Pennington.^{*} The request does not seek to discover previously undisclosed names of Consumers Power personnel, thereby compelling the disclosure of this company's affiliation with groups engaged in advocacy as defined in NAACP v. Alabama, 357 U. S. 449 (1958). Consumers Power is a regulated public utility with attendant responsibilities and obligations. As the Applicant, Consumers is the advocate of an unconditioned license, and has the responsibility to supply information relevant to the matters before the Commission, rather than attempting to block the discovery of the requested documents.

It is clearly within the discretion of the Board to admit evidence of "political" activities if it

^{*}/ Eastern R. R. President's Conf. v. Noerr, 365 U. S. 127 (1961); United Mine Workers v. Pennington, 381 U. S. 657 (1965).

is probative, and not unduly prejudicial. This was the finding in the Pennington case ^{*/} cited by the Applicant in support of its requested denial.

The Applicant characterizes the Joint Requests as probing into "political" activities. However, among such activity would be included contacts with public officials who directly or indirectly are responsible for the activities of municipal electric system operation. The intervening municipals and cooperatives are particularly interested (and legitimately so) in all the local discussions, meetings, correspondence and covert campaigns relating to the electric utility systems and their properties, whether they be "political" in nature, or programs of economic self interest sponsored by the Applicant to influence citizens, tax payers and electric energy customers. The documents sought by the Joint Requests covered by this blanket objection are relevant to the matters in controversy and should be produced pursuant to Section 2.741 of the Commission's Rules.

*/ 381 U. S. at 670, fn. 3

6. The Applicant's objection to Request 4 stems from its own unwillingness to permit inspection of the materials requested. No party wants irrelevant documents or even copies of the same for examination. The joint discoverers with the aid of the indexes sought in Request 2 would be able to define with a greater degree of particularity the document sought. The Board should order the Applicant to make these documents available in Jackson, Michigan if it is agreeable, and permit the inspection to resolve this aspect of the discovery.

The pooling arrangement and policies under which planning and participation is carried out are of vital importance to the Board and parties, serving as this information can to provide a basis for understanding pooling operations in Michigan and a potential source to which to look in formulating appropriate license conditions as may be required.

7. The Applicant's contention that pre-1960 documents are not relevant is without merit.

Intervenors requests made by letter dated September 21, 1972 from Mr. Fairman to Mr. Ross were

specific and limited in the number of years covered.

A copy of this letter is attached as Appendix B. These requests were submitted informally, not by direct application to the Board for its ruling, and at no time during the intervening period did Applicant advise counsel the requests were objectionable. The relevance of the events falling into the pre-1950 period is apparent from a reading of the documents included in Appendix A hereto. In February 1950, the Applicant while acknowledging the importance to Coldwater of the "flexibility of power supply achieved through connection with a transmission network (letter by James H. Campbell to Members of the Power Supply Survey Committee, Coldwater, Michigan, dated February 9, 1950, p. 2), refused to make wholesaling agreements for the supply of power. By April 1950 the Applicant was offering to buy Coldwater's utility plant (letter dated April 26, 1950 from Campbell to Owen Decker, Mayor). In Traverse City the company in 1955 was proffering an interconnection that was preferable to one with a REA system ("Why Consumers Power Company Proposal for An Interconnection is Better, D.B.H. 9/29/55"). The relationships between Consumers and the intervenor electric systems are

what they are now because of the policies and practices of the Applicant. Only by full discovery of the Applicant in the seven designated areas will the Board and the parties to the proceeding have an adequate record upon which to make the determinations required. The importance of competition in transmission services and coordination is shown in the Traverse City document. When the REA system was in a position to propose arrangements for interconnection, the Applicant undertook to propose a "better" arrangement.

Another important facet of competition for loads and desirability of adequate bulk power supply is illustrated by the following excerpts taken from Minute Book 12 of the Holland Board of Public Works:

"Page 316, regular Board meeting on June 30, 1952:

"The superintendent next stated that in a conversation with a representative of the Consumers Power Company he was given to believe that the Consumers Power Company is not interested in a tie line with our Holland system. Further investigation is to be made."

"Page 354, No. 12, regular Board meeting on March 16, 1953:

"Mr. Klaasen called attention to the discussion with the Consumers Power Company pertaining to a reciprocal tie-in between the facilities of the Consumers Power Company and the Holland Board of Public Works, said discussion having been held with the gentleman who is now the president of Consumers

Power Company. At that time a favorable reaction had been obtained. Mr. Rendleman reported that he had talked with the Grand Rapids Division Manager of Consumers Power Company who said they are not interested now. Mr. Klaasen suggested that the president and vice president of the Board confer with the Consumers Power Company president soon to discuss the matter fully. Mr. Bosh requested that Mr. Klaasen be added to the committee. Action was postponed to allow further consideration."

"Page 393, No. 12, regular meeting of Board on January 18, 1954:

"Chairman Klomparens reported that he had contacted Mayor Harrington relative to a letter received from Consumers Power Company about the use of Consumers services by the General Electric plant to be erected, and that the Mayor had stated that one of the conditions in obtaining the plant for Holland was the use of Consumers Power. Mr. Klaasen said that he was under the impression that at an earlier meeting with General Electric representatives, the company would not make definite arrangements with Consumers unless they made provision for a tie line with the City of Holland. Chairman Klomparens suggested that a letter to Consumers Power Company be drafted, in reply to the one received by the Board calling attention to the arrangement which was in effect and which the Board of Public Works feels should remain in effect except for this one exception. Mr. Klomparens and Mr. Klaasen were designated to draft the letter for submission to the Board."

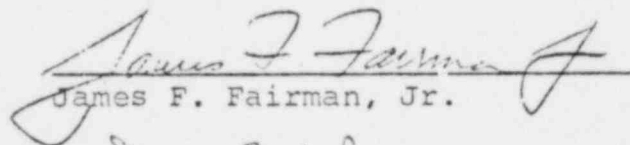
The Holland story illustrates the basis for initiating an interconnection; namely a big industrial load, GE, wanted assurance that nearby generating capacity (Holland's) was available for purposes of assuring alternate

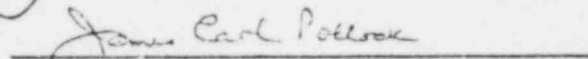
(more reliable power source. The foregoing examples need full exposition and the intervenors request hereby that the Board order production of documents sought by their letter dated September 21, 1972.

CONCLUSION

WHEREFORE, for the foregoing reasons the Intervenor request that the Board deny the Applicant's objections, and request for oral hearing, and further request that Applicant be ordered to produce the documents requested by Intervenor in their letter to counsel for Applicant dated September 21, 1972.

Respectfully submitted,


James F. Fairman, Jr.


James Carl Pollock

Attorneys for Intervenor

November 1, 1972

Law Offices:

George Spiegel
2600 Virginia Avenue, N. W.
Washington, D. C. 20037

APPENDIX A

B. D. Hilly
Division Manager



Consumers
Power
Company

Northwest Division: 821 Hastings Street, Traverse City, Michigan 49684 • Area Code 616 947-8400

March 29, 1968

Mr. Joseph Wolfe, Superintendent
City Light and Power Department
Municipal Building
Traverse City, Michigan 49684

Dear Mr. Wolfe:

We wish to affirm our discussion with you and Mr. Bob Daverman of Daverman Associates on Thursday, March 14, concerning the general terms under which electric power from Consumers Power Company might be shared with or supplied to the Traverse City Light and Power Department.

There are three plans under which assured electric power would be available to City Light and Power Department from the Consumers Power Company system. These may be described as interconnections for mutual assistance, purchase of power to supplement generation and purchase of entire system requirements.

In order to determine the availability of an interconnection agreement, it is necessary to determine the amount of generation on each system which is available for mutual assistance. Since the City Light and Power Department annual peak requirement now approximates 13,500 Kw and the generating capacity without the largest unit is only 15,000 Kw, it appears probable in the very near future that there will be no reserve generation for sharing. Because of this lack of reserve generation you do not meet the requirements for a mutually beneficial interconnection.

We understand Mr. Daverman has supplied you with rate details for the plans for supplying power either to supplement generation or for total system requirements. These plans are generally the same with a price advantage for the purchase of total system requirements. With either plan the Company would commit generation and transmission capacity to be available at all times to supply the predictable power requirements of City Light and Power Department. Because of this investment, we require a minimum capacity charge based on the electrical demand actually established on the supply system.

Mr. Joseph Wolfe, Superintendent
City Light and Power Department
March 29, 1968

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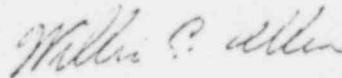
This demand is measured by its Kva characteristics as that is the most accurate measure of the system capacity required to serve it. Because the time element is only a fifteen minute interval we recognize this requires constant attention by the purchaser. However, we have many customers who for a number of years have purchased power at a low and economical rate with this type of demand measurement.

We suggest that there may be some items in a supply contract that will not completely satisfy the purchaser. It is our practice to continually review our rate provisions and implement changes whenever benefits will accrue to the customer. However, if Traverse City users are to receive the benefits of large unit power generation at the earliest possible time, we believe it will be necessary for City Light and Power Department to make a decision to purchase power and negotiate the best available contract in order to provide firm power at all times to the city's customers.

We are sure you are aware that Consumers Power Company is willing to work with City Light and Power Department in exploring the overall economics of a purchase plan at any time.

Thank you.

Yours very truly,



Willis C. Allen
Marketing Superintendent

WCA/mo

CC: BDHilty
RLPaul

G. W. Howard
Division Manager



Consumers
Power
Company

Battle Creek Division: 24 Capital Avenue, NE, Battle Creek, Michigan 49016 • Area Code 616 962-4051

November 22, 1966

Board of Public Utilities
City of Coldwater
Coldwater, Michigan

Gentlemen:

We wish to submit for your consideration the attached study on electric power costs for the City of Coldwater.

The study indicates that over the next seven years a savings of at least \$340,542 can be realized for the citizens of Coldwater if the additional power requirements are purchased rather than generated. The study is based on what we feel to be minimum costs for engine generation and, in addition, these costs have not been escalated to allow for probable continued inflationary pressures on costs associated with generation. On the other hand, wholesale power costs have declined in recent years and can be expected to continue to decline in view of future developments in nuclear generation and power pooling. Also, wholesale power costs can be fixed for up to ten years on a contract basis.

As appointed representatives of the people of Coldwater, we feel that you should weigh this matter very carefully and thoroughly consider all the alternatives before you reach a final decision. Consumers Power Company wishes to extend its complete cooperation and assistance to the Board in providing the City with an adequate and dependable supply of power at the lowest possible costs.

Sincerely yours,

Robert E. Brewster
Marketing Superintendent

REB:ef

Robt Bruner
Paul West
Robt. Paul

CITY OF COLDWATER
Electric Power Supply and Cost Study

Consumers Power Company
11/17/66

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CITY OF COLDWATER
Electric Power Supply and Cost Study

INTRODUCTION

The City of Coldwater operates an electric generating plant and distribution system and for the fiscal year ending June 30, 1966, generated or purchased a net total of 49,486,625 kwh for sale to its customers. A maximum demand for power reached 9,848 kw in December 1965. Power requirements were supplied by a combination of generated and purchased power as follows:

Generated - Steam Plant	46,596,750 Kwh
Generated - Diesel Plant	41,875 "
Purchased - CP Co.	<u>2,848,000 "</u>
Total	49,486,625 Kwh

As indicated from the above, the system power requirements are generally supplied by the steam plant generation with the diesel plant and the Consumers Power Company connection used only for standby or supplemental purposes. However, a continual increase in power requirements will necessitate additional diesel generation and purchase or the installation of new generating equipment. The city is presently considering the installation of three dual fuel, 3,000 kw engine generators estimated to cost \$1,500,000. An alternative to added generation would be to purchase the additional power requirements.

It is estimated that the proposed plant expansion would enable the city to generate its own power requirements, exclusive of standby or emergency power purchases, through the fiscal year ending June 30, 1974. At this time, the city would consider another expansion of its steam power plant. The purpose of this study is to compare the costs of the two alternatives over this seven-year period, 1968 through 1974, and probable costs for the years 1975 through 1977.

CITY OF COLIWATER
Electric Power Supply and Cost Study (Contd)

CONCLUSIONS

It can be concluded from this report that the city would save an estimated \$340,542 over the next seven-year period through additional power purchase as compared to costs of additional generation (Exhibit A). In addition to the direct savings in power costs, the city would not have increased its total indebtedness as would be the case with additional generation. The city can, therefore, substantially improve the overall financial condition of the electric department through the purchase of additional power requirements at this time.

It is difficult to estimate power costs beyond the capability of the proposed expansion since details as to type of additional plant, its operation and costs, are not known at this time. However, to show the effects of another similar plant expansion in 1974, the cost comparison was projected through 1977. This projected study indicates an additional savings through purchased power of \$241,493 (Exhibit A).

The savings computed in this report should be considered the minimum probable since generated costs were not increased to reflect the effects of continued inflationary pressures on costs associated with generation, such as fuel, labor, supplies, and materials. Also, it can be assumed that the continual downward trend in wholesale power costs will continue with such new developments of atomic and pumped storage power, and expanded interconnections and power pooling.

In addition to its direct economic benefits, purchased power offers other advantages, such as flexibility, reliability and improved system operation.

GAS-OIL ENGINE MUNICIPAL ELECTRIC GENERATING PLANTS

Operating Data and Costs - 1964

Code	Plant Rating	Gross	Net	Load Factor	Oil Costs	Gas Costs	Operating Cost Data - ¢/Kwh						Total
		Kwh Generated	Kwh Generated				Fuel	Lube	Labor	Supplies	Maint.	Other	
C	18,180 hp	32,865,100	31,917,950	49.1%	9.87¢	- ¢	.742	.024	.208	.028	-	.074	1.077
C-T	15,290 hp	31,121,700	29,584,400	53.4%	9.95¢	53.9¢	.622	.076	.154	.014	.053	.002	932
C	14,432 hp	21,255,600	20,478,180	24.2%	10.56¢	48.1¢	.597	.025	.266	.040	-	.004	.931
C	8,940 hp	12,767,200	12,104,100	43.4%	10.37¢	28.2¢	.427	.026	.413	.006	.031	.008	.912
B-T	9,400 hp	24,646,100	23,405,300	41.4%	10.15¢	54.6¢	.619	.027	.111	.035	.092	.032	.917
C	6,700 hp	9,616,960	8,291,629	57.5%	10.32¢	44.7¢	.655	.036	.336	.018	.049	-0-	1.094
C	6,360 hp	12,830,300	12,459,500	61.0%	9.32¢	49.0¢	.743	.024	.253	.036	-	.026	1.083
C	5,907 hp	12,459,400	11,826,850	45.9%	10.96¢	51.9¢	.920	.059	.307	.075	.096	.044	1.501
C-T	11,840 hp	13,824,300	13,098,700	49.3%	9.69¢	30.3¢	.516	.023	.343	.012	-	.082	.976
		171,386,660	163,166,600			Avg	.649	.035	.266	.029		.066	.038
	Station Use		8,220,060										
			4.8%										

Code

C , Complete Load
C-T, Tie With Utility
B-T, Base Load Plus Tie

RLP
2/8/66

B. D. Hilly
Division Manager



Consumers
Power
Company

Northwest Division: 821 Hastings Street, Traverse City, Michigan 49684 • Area Code 616 947-8400

Traverse City, Michigan
October 17, 1966

Dear Neighbor:

You are aware, I am sure, that the Traverse City light plant, located on Grandview Parkway in downtown Traverse City, is to be greatly expanded. You are aware, too, that there has been considerable controversy over this construction.

Many residents of Traverse City were dismayed to learn that even the initial expansion of the City light plant would result in a vastly bigger structure on the waterfront. Indeed, it was necessary to change the City's zoning regulations to permit construction of a building nearly 100 feet tall. And it became clear that this was only the beginning. Further expansion is planned in future years, and this again will require still more buildings.

In mentioning these points, my intention is only to summarize published discussions over the past few weeks. The purpose of this letter is to state the position of Consumers Power Company.

We are now, and we always have been, willing to supply all the power requirements of Traverse City. We stand ready, as in the past, to incorporate Traverse City's energy requirements in our long-range planning for all the areas of the Lower Peninsula which we serve.

We have offered, in the past, to acquire the facilities of the Traverse City Light Department. We have felt, and continue to believe, that we could be growing partners of Traverse City in the orderly development of Northwest Michigan with an unlimited and dependable source of electric power.

October 17, 1966

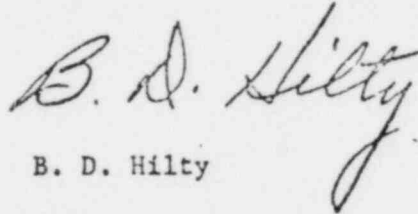
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We are willing to make an offer to purchase the City's existing facilities. More than that, we are prepared to accept large obligations of expense which have been contracted for by the City Commission, even though it would not be our intention to proceed with this expansion program. As to the value of the City's facilities, we suggest an impartial survey by independent experts associated with neither the City nor Consumers Power.

I feel it is important, in the light of existing controversy, to make our position clear. We believe in the future of Traverse City. We believe in preserving the natural beauties of Traverse City. We stand ready to make a new offer, if the people of Traverse City desire it.

Sincerely,

CONSUMERS POWER COMPANY


B. D. Hilty

BDH/nt

WHY CONSUMERS POWER COMPANY
PROPOSAL FOR AN INTERCONNECTION IS BETTER

The City's Investment Will Be Substantially Smaller

Consumers will build the connecting line at no cost to the City. Consumers will also supply the 5,000 kva transformer and the 500 kva regulator; two of the most costly items in the substation.

The City Will Make Yearly Savings on Fixed Charges

With fixed charges (interest, depreciation and insurance) at 7-1/2%, each \$1,000 saved in initial construction costs will return the City \$75.00 per year.

The Rate Per Kilowatt-hour is Fair to Both City and Company

Any unbalance in kWhrs in any three months' period will be sold at a rate of 1.2¢. The cooperative plan calls for 1.14¢. The latter would be a bit more advantageous to the City when purchasing but less advantageous when selling.

The City Will Have the Advantage of Drawing on the Electric Resources
Of A Strong Interconnected System

Any interconnection with Consumers is made with an integrated 140,000 volt transmission system with many generating sources and is not dependent on one line and one generating plant as it would be with the Northern Cooperative.

The City Can Obtain The Technical Assistance of Many Specialists in Electric
Generating and Distribution Problems

Consumers engineers have had broad experience in the design and operation of power plants, substations and transmission lines and will be available for consultation.

Operating Personnel

Operating personnel of Consumers are immediately available in Traverse City to operate or maintain Consumers equipment on interconnection.

Consumers Has a Record of Successful Operation of Interconnections

Interconnections between the Consumers system and the Detroit Edison Company, and between the systems of Consumers and the City of Lansing, have been in successful operation for many years.

Consumers also supplies power to a number of municipalities and to one rural electric cooperative.

Stabilize Frequency of the Traverse City System

This will improve electric clock operation and electronic controls in industry applications.

Continuity of Service

Consumers Power can cover loss of generation without any strain on transmission facilities which may not be the case with REA supply.

Voltage Stabilization

Stabilize voltage conditions so Traverse City system supply to industry customers would be strengthened, so that major welding and electric furnace equipment could be served.

Sources of Power

Interconnection with Consumers will afford more firm source of power because of the Boardman Substation in Traverse City and because of the lines feeding this substation. REA has one line and a small station in the area.

Stand-by Power

An interconnection will supply stand-by power for auxiliaries in case of necessity of total shut-down of the Traverse City plant.

Coal Strike or Shipping Strike

Traverse City system could conserve coal supply in case of coal strike or strike in shipping facilities. There is the possibility that Traverse City could make less investment in coal stock to tide them over winter period with an interconnection.

Reserve Capacity Operating Cost

The interconnection will allow Traverse City system to operate at both light and heavy load periods with less reserve capacity. It will also allow most efficient operation of present generating equipment.

Reserve Capacity Investment Cost

An interconnection can defer investment cost in new generating equipment as Traverse City system could possibly operate with a small reserve capacity. This would defer installation of new equipment until load approaches capacity already installed.

Industries Like to Know Their Electric Service is Strong and Dependable

Often the strength and dependability of electric service is a key factor when an industry seeks a new plant location. Through its Industrial Development Department, Consumers is working for the industrial prosperity of Northwestern Michigan. An interconnection with Consumers will be additional reassurance to present and prospective customers of the Traverse City system.

The City Will Be Dealing With a Good Citizen of Traverse City

Consumers accepts the responsibility of a good citizen and is a contributor and active supporter of charitable and civic projects. Its more than 170 employees and their families represent a substantial segment of the City's retail market.

The City Will Be Dealing With A Good Citizen of Traverse City Continued

In addition, because of the very nature of their work they take more than ordinary interest and activity in diverse civic affairs.

Through taxes, payroll, local purchases and contributions, Consumers expends nearly one million dollars yearly in Traverse City. It has a stake in the community. The interests of Traverse City are its interests.

Consumers will strive to cooperate with the City in every way to bring about the most efficient and economical operation of both systems.

C O P Y

April 26, 1950

Mr. Owen Decker, Mayor,
City of Coldwater,
Coldwater, Michigan.

Dear Mr. Decker:

This letter is directed to you as chief officer of the municipal government of the City of Coldwater. It is intended to be a communication to each member of the City Council and is written with that thought in mind. An official copy has been deposited with the City Clerk.

Last Monday evening, in company with Mr. Claude Sullivan, Division Manager of Consumers Power Company's Battle Creek Division, I attended the regular session of the City Council conducted in the Council chambers. Upon invitation from the presiding officer, I addressed the meeting and, in behalf of Consumers Power Company, made public an oral offer to purchase the electric power production and distribution facilities now owned by the municipality. This letter reduces that offer to writing and confirms it without exception.

Consumers Power Company is prepared to pay to the people of Coldwater, through their elected representatives, the sum of one million dollars (\$1,000,000.00) in cash as total consideration for the purchase of the electric power production and distribution facilities. Consumers Power Company reserves the right to withdraw this offer at its own discretion; however, as I pointed out last night, we do not make the offer lightly and we do not intend to be unreasonably abrupt in withdrawing it.

Specifically, this offer contemplates that the City of Coldwater would transfer its ownership of the following facilities to the Consumers Power Company, subject to the approval of the electorate, and that Consumers Power Company would fulfill a complete and undivided responsibility to the citizens for efficient electric service.

C O P Y

FACILITIES INCLUDED IN THE OFFER

Electric Production Plant, Structures and Equipment

N.Y.C.R.R. and Bennett Street

Structures

Turbo-generator Building
Boiler House
Diesel Plant Building
Concrete Block Storage Building

Equipment

All Turbo-generator Units
All Boilers (both in service and under construction)
All Diesel-electric equipment
Oil tanks, piping, etc. for Diesel Plant
Cooling Tower and Equipment
Cooling Pond and Equipment
Concrete Stack
Coal and Ash Handling Equipment
All Electrical Equipment, Wiring, Conduit, etc.
All Plant Piping
All Stores and Supplies

N.B. This offer includes assets involved in the work in progress for the new boiler.

This offer does not include any Water Department structures, wells nor equipment; nor does it include transportation equipment, office furniture and fixtures, nor general office structure.

Electric Distribution Plant

All poles, Towers and Fixtures
All Overhead Conductors and Devices
All Transformers, Capacitors, Regulators and Accessories
All Services
All Meters and Metering Equipment
All Street Lighting Equipment
All Stores and Supplies

General Plant

All Laboratory and Shop Equipment
All Tools and Work Equipment (Electric only)

This offer contemplates that title to land be transferred only to the extent necessary to give effect to the ownership of plant structures. It is not contemplated that Water Department operations be situated elsewhere and the offer seeks no interest in land other than that outlined above.

C O P Y

This letter is intended to outline the terms of our offer to the City of Coldwater. In itself, it does not purport to be a proposed contract. A suitable sales agreement can be prepared as the transaction progresses. Such an agreement would include provisions for the establishment of a franchise, transfer of rights of way, creation of street lighting and water pumping power contracts, and various details of procedure in connection with physical transfer of property. These details can all be agreed upon through joint consultation and incorporated in such a contract.

Naturally we hope that the City Council will weigh this offer and conclude to present the choice to the people at an election. Only then can the electorate reach an informed decision.

We believe that the record clearly shows that the benefits of power supply from a large integrated network are real and enduring. If you agree that this is a matter which the people ought to decide, we will do our best to explain those benefits to the citizens of Coldwater so that they may come to an informed opinion on the subject.

Sincerely,

CONSUMERS POWER COMPANY

James H. Campbell
Vice-President

JHC aw

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CONSUMERS POWER COMPANY
GENERAL OFFICES
JACKSON, MICHIGAN

February 9, 1950

To the Members of the Power Survey Committee
Coldwater, Michigan

Gentlemen:

In his official capacity as Chairman of the Mayor's Power Survey Committee, Mr. A. E. Sieg wrote a letter on January 13, 1950 which served as a directive to the engineering firm of Jensen, Bowen & Farrell in their preparation of an electric rate survey. The report developed by Jensen, Bowen & Farrell is being tendered directly to your committee in accordance with the mutual understanding reached at a joint meeting early this year.

Mr. Sieg's letter also posed certain questions concerning wholesale supply of power which fell outside the province of the engineering consultant inasmuch as they related exclusively to Consumers Power Company's position. Consequently, I shall undertake to reply to these four questions in this letter.

Point One

Purchase of Stand-By Power Only

Consumers Power Company does not care to earmark generating capacity and line facilities for stand-by arrangements. Frankly, the requirements for system capacity are such that facilities can be more gainfully employed on a full production basis.

Point Two

Supply Complete Requirements on a Wholesale Basis

For reasons which I have already presented to your committee at a previous meeting, Consumers Power Company prefers to decline wholesaling agreements for supply of power. This point of view also precludes adoption of arrangements under

Point Three

of your letter--a proposal whereby some fraction of Coldwater's requirements might be provided.

COPY

Power Survey Committee
Coldwater, Michigan

February 9, 1950

Point Four

"Any other plausible plan - - - - which might be advantageous to both."

Consumers Power Company is very much interested in helping the community of Coldwater to solve its electric service problem. Our specialized business is the manufacture, delivery and retail sale of electricity, and we believe that this "know-how" in supplying integrated electric service, from generators to customers' homes and factories, has been amply demonstrated. The facts speak for themselves.

The unbiased report prepared by Jensen, Bowen & Farrell is a factual study of electric rates. It discloses that the community of Coldwater is paying more for electric service through municipal operation than would be the case if Consumers Power Company served the people of the community. As a matter of fact, there are many other considerations favoring Consumers Power Company as a supplier which do not appear in the Jensen, Bowen & Farrell report.

1. For example, if Consumers Power Company served Coldwater, the community would benefit from local tax revenues amounting to thousands of dollars per year.

2. Another benefit to Coldwater, which it is difficult to appraise in dollars, is the flexibility of power supply achieved through connection with a transmission network. Such a connection gives real assistance in attracting new industries to the city and also insures that existing industries will not be hampered in expansion plans by inadequate power supply. These considerations can prove very costly to a community isolated from large power resources.

3. Coldwater's rates as of today appear to be inadequate to sustain the large expenditures which will be necessary to obtain satisfactory development of municipally-owned power facilities. In other words, further rate increases, in addition to those already levied, appear to be a probability if the city continues in the power business. Such increases would serve to widen the gap between local rates and Consumers Power Company's standard schedules.

4. The general trend in Consumers Power Company's electric rates has been downward at a pace which has been appreciably faster than the national average. We believe that the mass-production efficiencies possible only on a large system such as ours will make it possible for us to continue in a position of leadership in giving good service at maximum economy.

COPY

Power Survey Committee
Coldwater, Michigan

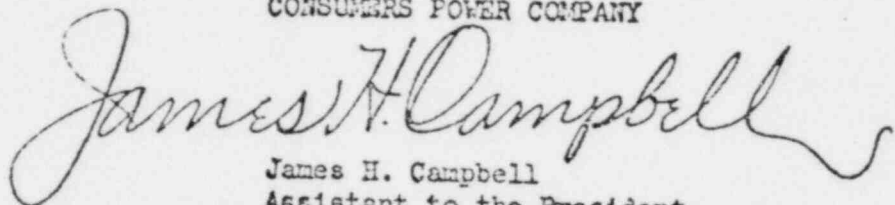
February 9, 1950

The afore-mentioned considerations by no means exhaust the list of benefits which a community enjoys through association with a large power network. They do serve as examples of the sort of advantages Coldwater can gain by selling its municipal plant to specialists in the power business.

As the next logical step in Coldwater's inquiry into its electric utility problem, Consumers Power Company would like to suggest that the proper municipal officials authorize the steps necessary to be taken in order that a bona fide purchase proposal may be submitted to the people. Such an authorization does not commit the community to sell the electric system. It merely permits the investigation of the problem to proceed to its logical conclusion--a decision by the voters as to what they desire to be done.

Sincerely,

CONSUMERS POWER COMPANY

A large, flowing handwritten signature in dark ink, reading "James H. Campbell". The signature is written in a cursive style with a long, sweeping tail that extends to the right.

James H. Campbell
Assistant to the President

JHC/asf

LAW OFFICES OF
GEORGE SPIEGEL
2600 VIRGINIA AVENUE, N.W.
WASHINGTON, D.C. 20037

September 21, 1972

TELEPHONE 333-8860
AREA CODE 202

GEORGE SPIEGEL
JAMES F. FAIRMAN, JR.
ROBERT C. MCDIARMID
SANDRA J. STREBEL

Wm. Warfield Ross, Esq.
Wald Harkrader Nicholson & Ross
1320 - 19th Street, N. W.
Washington, D. C. 20036

Re: Consumers Power Company
(AEC 50-329A, 50-330A)

Dear Mr. Ross:

Pursuant to our discussions in the recent meetings of counsel, this is to request that documents contained in the files and records of the Consumers Power Company pertaining to the matters listed below be produced. Such materials predate the January 1, 1960 "cut-off" for discovery established by the Licensing Board in its Order of August 7, 1972 (Order p. 4, paragraph 10). Negotiations, proposals and contractual arrangements between the company and many of the intervenor electric systems were initiated between 1950 and 1960. We believe the material requested is encompassed by Items 3d, 5a, 5(f)(2) and 10 of the First Joint Request and that its production will serve to afford a complete review of the developments from which the present relationships have evolved. We would expect that the material requested will not comprise a quantity of documents which would serve to delay or otherwise burden the discovery.

We request the following for the time period indicated:

1. Documents relating to the company's proposal for and electric service to the General Electric manufacturing plant in Holland, Michigan (1951-1954).

2. Documents comprising or relating to feasibility studies, proposals, negotiations and discussions between the company and members or employees of the Holland Board of Public Works or other city officials for interconnection or electric service (1952-1960).

3. Documents comprising or relating to discussions, negotiations and proposals to interconnect, sell or interchange electric service with Traverse City (1955 to 1960).

4. Documents comprising or relating to a wholesale power agreement between Wolverine Electric Cooperative and the company for interchange of power at White Cloud, Michigan, effective August 12, 1949 (1949-1952).

5. Documents comprising or relating to discussions, negotiations, feasibility studies and proposals for (a) standby service to Wolverine Electric Cooperative and (b) the company's contract for electric service to Wolverine dated March 23, 1956 (1955-1960).

6. Documents comprising or relating to discussions, feasibility studies, proposals and negotiations between the company and members or employees of the Coldwater Board of Public Utilities or other city officials for the acquisition of the city's electric plant, the furnishing of wholesale electric service to the city and the securing of authorization for retail service by the company within the city (1950-1960).

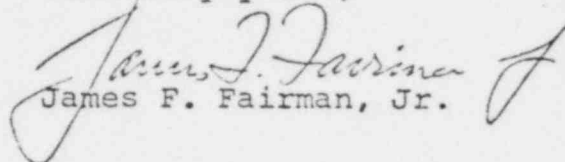
Wm. Warfield Ross, Esq.

- 3 -

September 21, 1972

7. Documents relating to discussions, studies, invitations and proposals to acquire the electric system facilities owned by the City of Grand Haven (1958-1959).

Sincerely yours,


James F. Fairman, Jr.

JFF/njz

cc: Members of the Board

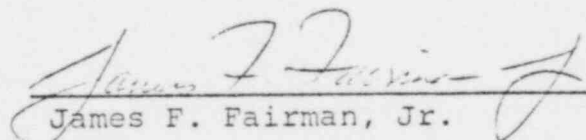
J. Rutberg, Esq.

W. Brand, Esq.

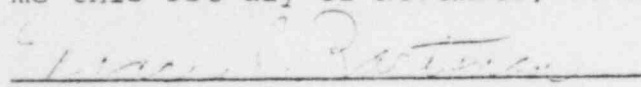
AFFIDAVIT

DISTRICT OF COLUMBIA, SS:

James F. Fairman, Jr., being first duly sworn, deposes and says that he is an attorney for the Electric Departments or Boards of Public Works of Holland, Grand Haven, Zeeland, Coldwater and Traverse City, Michigan; Northern Michigan Electric Cooperative, Wolverine Electric Cooperative and the Michigan Municipal Electric Association; and that as such he has signed the foregoing Answer of Intervenor to Applicant's Objection to Document Requests and Motion for Protective Order for and on behalf of said parties; that he is authorized so to do; that he has read said Answer and is familiar with the contents thereof; and that the matters and things therein set forth are true and correct to the best of his knowledge, information or belief.


James F. Fairman, Jr.

Subscribed and sworn to before
me this 1st day of November, 1972.


Notary Public

My commission expires: September 30, 1974