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February 23, 1973

Wallace E. Brand, Esquire
Antitrust Public Counsel Section
P. O. Box 7513
Washington, D. C. 20044

Re: Consumers Power Company, Midland
Plant Units 1 and 2, AEC Docket
Nos. 50-329A, 50-330A, Department
of Justice File No. 60-415-20

Dear Mr. Brand:

This is in reference to the "Request for Admissions and Interrogatories as to Proposed Contentions", filed by the Department on February 12, 1973.

The demand, which is lengthy and complex, requires the analysis of many Company employees and agents representing a variety of disciplines. Applicant will not therefore be prepared to discuss it with you, or to detail its objections, until March 12, 1973. Applicant proposes to respond to the admissions (except those to which its objections are sustained) by April 2, 1973, or fifteen working days following a Board ruling ordering response to disputed items.

The interrogatories concerning Applicant's contentions at the hearing are clearly premature until the completion of our discovery. However, once discovery is completed, each party will undoubtedly seek to ascertain discovery of its opponent's contentions. To date, Applicant's discovery demands against the Department and the non-party municipals have produced no response, while the intervenors' compliance has been minimal.

As noted above, detailed examination of the Request by Company personnel may reveal that certain items call for information which is privileged, confidential, unduly burdensome, not relevant or otherwise inconsistent with the Commission's Rules. However, without waiving any such objections

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to the Department's Request, Applicant is prepared at this juncture to set forth five deficiencies in the request which an initial preliminary review reveal to be readily-apparent. These deficiencies are:

1. Many Requests inquire into matters occurring prior to 1960 which the Board has held to be immaterial to this proceeding. Objectionable items in this regard include nos. 2-10, 32-34, 71, 89-104, 108, 115, 116 and 205.
2. Requests 181, 182 and 186 seek information about Applicant's "political" activities before various governmental entities, which the Board has held to be irrelevant to this proceeding.
3. Many requests require Applicant to interpret statutes, case law, administrative regulations and the like; such inquiry is not permitted by the Rules which confine admission to "specific relevant matters of fact". (10 C.F.R. §2.742). Objectionable requests in this regard include nos. 49-50, 64, 89-104, 117, 121-124, 128, 131, 140, 141, 143, 145, 146, 179-185, 189-193, 197, 202, 203 and 210-212.
4. Many requests are not related to Applicant, the lower peninsula of Michigan, or any other "specified relevant matter of fact" in issue, as the Rules require. Such requests include nos. 12-31, 35-48, 50-63, 65-70, 72-88, 115-116, 122, 123, 127, 159, 162, 198, 204, 209, 213-216 and 221.
5. Many requests are ambiguous, conclusionary, and/or argumentative and are thus not in a form required by the Rules. Such requests (and the particular words and phrases that are of particular concern) include the following: 1 (predominately); 11 (possibility); 42 (usually); 43 (probably); 54 (relatively small); 55 (relatively great); 56 (feasible); 63 (might); 68 (generally); 74 (obvious bargaining disadvantage); 81 (equal bargaining strength; usually); 109 (from time to time); 112 (similar representations); 113 (other); 114 (some); 118 (terms . . . coordination); 119 (substantial . . . coordination); 120 (full access . . . coordination); 121 (superior); 122 (usual); 126 (in effect); 127 (normally); 132 (relatively large); 139 (could be); 143 (restricts); 147 (principally);

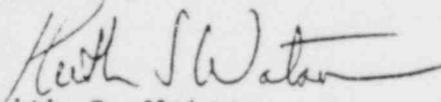
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148 (period of years); 152 (probably); 153 (very small; significantly); 154 (such a case); 156 (comprehensive; some provision); 157 (substantial); 158 (smaller); 160 (smaller systems; claimed); 161 (significantly different); 163 (compelled); 166 (relatively far apart); 167 (limit; feasible); 169 (short; small amount); 178 (bargaining status); 179 (recently); 180 (unfair); 183 (some); 194 (limitation); 195 (free and open); 200 (other); 204 (competitively priced); 213-15 (are said); 216 (representatives); 217 (financially feasibility); 221 (very large; full access); 222 (small; reasonably close); 224 (close); 225 (near); 226 (near; may; close by); 227 (would even); 228 (same terms; greater degree); 230 (some reasonable relationship; reasonable distance) and 231-232 (too distant economically).

We would be pleased to discuss the matters set forth above, as well as to detail all of our concerns with respect to this Request, on or after March 12, 1973. Please let me know when you would like to get together in this regard.

Sincerely,


Keith S. Watson

KSW:asl

cc: Board members
Joseph Rutberg, Esq.
James Carl Pollock, Esq.