

5/24/73



APPLICANT'S MOTION TO COMPEL

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to the municipal and cooperative intervenors which were served on August 4, 1972. Although the Board ordered completion of all outstanding discovery demands by April 2, 1973, the Intervenor's responses as of that date were patently incomplete. Applicant's motion to compel further production, dated April 9, 1973, was held in abeyance by the Board pending the efforts of the parties in question to resolve their differences informally.

On April 19, 1973, counsel for Applicant presented to Intervenor's counsel a catalogue of those discovery demands which had not been adequately answered and which Applicant considered essential for the preparation of its case. In a later discussion by telephone between counsel (confirmed by the attached correspondence), Applicant requested, and Intervenor's agreed to, compliance by May 7, 1973. On May 8, 1973, the Intervenor's counsel sent Applicant a letter (with copies to Board members) which purported to contain responses to Applicant's interrogatories.^{3/} According to the letter O & A electric cooperative's responses had not been "received" (p.2), Northern Michigan electric cooperative responses were "in the mail" (p.3) and Zeeland's responses were to be supp-

^{3/} The letter was accompanied by several hundred document responses as well.

lied "as soon as possible", p.13.^{4/}

Since nearly two months have passed since the Board ordered discovery completed and since the information Applicant seeks is essential to its case, Applicant submits that the Board should not countenance further delay.

In addition, the aforementioned letter from Intervenor's counsel of May 8 which contained responses to interrogatories by other Intervenor's failed to conform with Section 2.740b(b) of the Commission's Rules. That section requires that response be made "under oath or affirmation" and be "signed by the person making them", not by counsel. Although Applicant has brought this deficiency to Intervenor's attention (see attached letter), compliance has not been forthcoming. Applicant therefore requests the Board to order the Intervenor's to comply with Section 2.740b (b) with regard to their responses to Applicant's interrogatories.

WHEREFORE, Applicant moves the Board for orders

^{4/} Intervenor's counsel today advised that Zeeland's response would be mailed forthwith while no word had been received from the other two parties.

(1) compelling certain Intervenor to complete responses to discovery within five days and (2) compelling Intervenor to sign and affirm responses to Applicant's discovery pursuant to Section 2.740b(b) of the Rules.

Respectfully submitted,

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May 21, 1973

ATTACHMENT A

Deficiencies in Responses to
Applicant's Discovery from
Zeeland, O & A, and Northern
Michigan.

NOTE: The numbers on the left of this attachment refer
to the number of the item of Applicant's discovery
request.

A. Zeeland Board of Public Works

1. No Form 1-M was provided for the year 1961. This document should be furnished. Zeeland purports to have furnished copies of FPC Forms 3 for the period 1960-1971. Applicant has no copies of these documents. Copies requested.

3. Only one set of rate schedules was provided; others should be provided for the applicable period. No effective dates are provided. Applicant's sources indicate Primary Service schedule provided not effective until Nov. 15, 1966. Effective dates for all rate schedules should be supplied, as requested.

7. In response to this Interrogatory, Zeeland stated that there have been no rate changes during the period in question. This response appears to be inconsistent with the reply to Interrogatory 3, which states that Zeeland's rates were changed recently. Applicant requests explanation of this inconsistency.

9. Zeeland did not provide either typical bill calculations or indicate which rate schedules would apply to the various consumption levels. Applicant requests a full response to this Interrogatory.

10(a) and (b). The five largest commercial and industrial customers were indicated as of the February 1973 billing. No historical or other data were provided as requested. These data should be furnished.

and circuit miles of distribution facilities for each year 1960-1971. Zeeland provides one number with no indication of the time period to which it applies. Complete response requested.

77. Reply "see FPC reports" is unresponsive. Complete response requested.

79. This interrogatory inquires if the municipal has ever considered buying wholesale power. Zeeland's response "we are not a member of NMCPP [sic]" is totally unresponsive. Reply requested.

93 and 94. Responses refer to FPC Form 12. These reports supply the data for 1960-1971, but they contain no projections for the next 10 years. Response for the period 1972-1981 should be furnished.

B. O & A

3. The customer characteristics required for service under various rate schedules refer to "established rules and regulations" but these rules are not provided. These documents should be furnished.

The earliest commercial and industrial rate schedules

provided are January 1, 1968. O&A should provide commercial and industrial rate schedules applicable for the period January 1, 1960 to December 31, 1967.

10. The response fails to provide (for each customer listed) the voltage at which service is supplied and the applicable rate schedule. These data should be furnished.

28(a). The dates on which service was initiated to each of the largest customers gained over the period under consideration are not given. These dates should be provided.

36(a). O&A responds to this subparagraph:

- (ai) yes
- (aia) no

This response indicates that customers had the option of changing from O&A service to service by another utility, but that the reverse was not true. Applicant requests clarification of this response since it appears contradictory and purports to cover the entire period from 1960 to date.

(c). O&A responds to this subparagraph:

(ci) Our records do not indicate why an account was retired, but (the respondent is) aware of some changeovers to another utility on at least four occasions.

(cii) Don't know.

Although O&A may not possess the exact kilowatt-hour consumption information requested in (cii), a general statement

to the class and size of customers who changed service should be provided.

39. No response provided. Reply requested.

C. Northern Michigan Electric Cooperative

66. Northern Michigan has furnished in response to this request, power supply studies for 1961, 1964 and 1968. The 1968 study is responsive for the years 1970 to 1979. Earlier studies, although they deal with capacity requirements, do not provide data for 1960-1969 on reserve criterion employed by Northern Michigan. The response is therefore incomplete.

ATTACHMENT B

Correspondence between Counsel
for Applicant and Intervenors
concerning compliance with
Applicant's discovery.

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that copies of APPLICANT'S MOTION TO COMPEL, dated May 21, 1973, in the above-captioned matter have been served on the following by deposit in the United States mail, first class or air mail, this 21st day of May, 1973:

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