

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-329 and 50-330]

THE CONSUMERS POWER COMPANY

(Midland Plant, Units 1 and 2)

O R D E R

Re Time and Place for Prehearing Conference in Special Proceeding, Appearances of Attorneys, and Conference Agenda

The Atomic Safety and Licensing Board for Special Proceeding hereby calls a prehearing conference of the attorneys against whom charges were preferred by the presiding officer's order of November 4, 1977 and of the parties initiating the charges. Such conference is scheduled to be held at 10:00 a.m., Monday, January 9, 1978 in Courtroom 17, Sixth Floor, United States Court House, Constitution Avenue and John Marshall Place, N.W., Washington, D.C.

The board requires that each attorney representing any attorney against whom the presiding officer had preferred charges and each attorney representing a party which initiated any of the charges enter their respective appearances in the special proceeding prior to the prehearing conference in the manner provided for at 10 CFR §2.713(a). Also, if any other party in the underlying proceeding being conducted pursuant to the remand by the United States Court of Appeals for the District of Columbia wishes to participate in the special proceeding, its attorney, too, should enter an appearance in the special proceeding prior to the prehearing conference

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in the manner provided for at 10 CFR §2.713(a) and at that time indicate the position of the party whom he or she represents with respect to the preferred charges.

The following subjects will be included on the agenda of the pre-hearing conference in addition to such other subjects as may later appear desirable:

1. Charges preferred. The board directs each attorney against whom charges have been preferred and each party which had previously initiated such charges to exchange with one another and to submit to the board a concise statement of the individual charges of professional misconduct which are encompassed by the presiding officer's order of November 4, 1977. The individual charges should be stated in terms of 10 CFR §2.713 (c) (1)-(5) and the American Bar Association's Code of Professional Responsibility. The requested statement should also specifically describe the alleged professional misconduct upon which each charge rests. The above exchange and submission of the requested statement should be completed no later than Thursday, January 5, 1978.
2. Hearing of the preferred charges. A full evidentiary hearing on alleged professional misconduct of the individual attorneys against whom the presiding officers had preferred charges is contemplated, with all parties in the special proceeding having

the right to present evidence and to conduct cross examination.

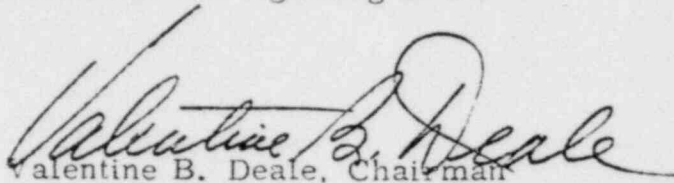
The burden of proof is on the party or parties which initiated the charges preferred in the presiding officer's order of November 4, 1977.

3. Identification of the evidence which each party in the special proceeding proposes to submit at the hearing, including names of witnesses, description of documents to be produced, citations of transcript pages, etc.

Such evidence must directly concern the alleged professional misconduct of one or another of the individual attorneys against whom the presiding officer had preferred charges, or to the denial of same.

4. Discovery. If a party in the special proceeding contemplates discovery, he or it should identify precisely the discovery sought and the basis therefor. Similarly, a party objecting to any proposed discovery should state his or its objections with supporting reasons.
5. Discipline. The board requests that each party which initiated the charges giving rise to this special proceeding specify the exact discipline which it is now seeking this board to impose upon the attorney or attorneys against whom its charges were directed, and the authority for the board to impose such discipline.
6. Preliminary Motions. It is expected that the board will set a time schedule for the filing of preliminary motions in advance of the hearing date.

7. Schedule for hearing. The board anticipates that at the pre-hearing conference it will set a date for the beginning of the hearing.


Valentine B. Deale, Chairman
Atomic Safety and Licensing Board
for Special Proceeding

Dated at Washington, D. C.

this 19th day of December 1977.