

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

COMMISSIONERS:

James R. Schlesinger, Chairman
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Wilfrid E. Johnson
Clarence E. Larson
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THIS DOCUMENT CONTAINS
POOR QUALITY PAGES

IN THE MATTER OF
CONSUMERS POWER COMPANY
(Midland Plant, Units 1 and 2)

DOCKET NOS. 50-329
50-330

ORDER

On October 22, 1971, the Mapleton Intervenors^{1/} filed with the Commission a notice of appeal from the Memorandum and Order of the Atomic Safety and Licensing Appeal Board dated October 18, 1971. The Appeal Board's Memorandum and Order had denied, as interlocutory, the Mapleton Intervenors' appeal from an order of the Atomic Safety and Licensing Board dated August 26, 1971, denying intervenors' motion to dismiss the construction permit application.

Pursuant to 10 CFR §2.785 of the Commission's "Rules of Practice", the Commission has delegated to the Appeal Board the responsibility for exercising the authority and performing the review function which would

^{1/} Mapleton Intervenors: Nelson Aeschilman, John L. Wentworth, Hilda M. Wentworth, John Liddell, Loretta Liddell, and Wendell H. Marshall.

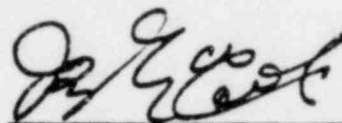
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otherwise have been exercised and performed by the Commission in this proceeding. Accordingly, Section 2.786 of our "Rules of Practice" is dispositive of this matter. It explicitly states: "No petition or other request for Commission review of an Appeal Board's decision or action will be entertained by the Commission."^{2/} The Appeal of the Mapleton Intervenors is therefore denied.^{3/}

It is so ORDERED.

By the Commission.



W. B. McCool
Secretary of the Commission

Dated: November 24, 1971

2/ 10 CFR §2.786 provides as follows, in its entirety:

"(a) Within 15 days after the date of a decision or action by the Atomic Safety and Licensing Appeal Board under §2.785, the Commission, in the proceedings described in subparagraph (a)(1) of §2.785, may on its own motion direct that the record of the proceeding be certified to it for review on the ground that the decision or action of the Atomic Safety and Licensing Appeal Board (1) is, with respect to an important matter, in conflict with statute, regulation, case precedent, or established Commission policy, and (2)(i) could significantly and adversely affect the public health and safety or the common defense and security, or (ii) involves an important question of public policy. The effect of the Atomic Safety and Licensing Appeal Board's decision or action is then stayed until the Commission's review of the proceeding has been completed.

"(b) No petition or other request for Commission review of an Appeal Board's decision or action will be entertained by the Commission."

3/ We have similarly denied appeals in earlier proceedings. See our Memorandum and Order dated July 21, 1971, In the Matter of Pacific Gas and Electric Company (Diablo Canyon Unit 2), Docket No. 50-323; and our Memorandum dated July 29, 1970, In the Matter of Long Island Lighting Company (Shoreham Nuclear Power Station, Unit No. 1), Docket No. 50-322.

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ATOMIC ENERGY COMMISSION

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

11-24-71

Docket No. 50-329, 330

CERTIFICATE OF SERVICE

I hereby certify that copies of the ORDER issued by the Commission dated November 24, 1971 in the captioned matter have been served on the following by deposit in the United States mail, first class or air mail, this 24th day of November 1971:

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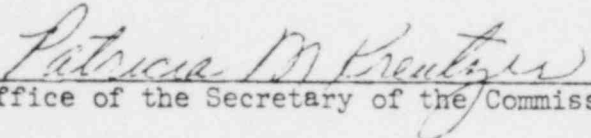
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