



DOCKET NUMBER
PROD. & UTIL. FAC. 50-329,330

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

1-6-72

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

Docket Nos. 50-329
50-330

ORDER

1. The motion of Saginaw intervenors to reconsider the December 31, 1971 date for filing contentions, etc., with respect to the Applicant's Environmental Report is granted and Saginaw intervenors are directed to file such contentions, etc., no later than February 4, 1972, the due date of their contentions with respect to the Staff's Draft Statement (which date is not hereby extended). The Board deems it appropriate to express its unhappiness with the implications of the request and the stated response. We recognize that Counsel for intervenors are spread thinly over a number of cases; we have attempted consistently to schedule hearings and meetings of the Board as to time and place with that consideration in mind. (Since opposing intervenors' Counsel are located in Saginaw, Michigan; Chicago, Illinois; Washington, D. C. and Suffolk County, N. Y. it is hard to accommodate everyone at once). At times we have done so to the inconvenience of the Board

8007070 433

G

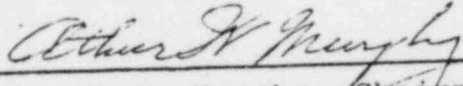
and of other Counsel. There are limits to the concessions which can properly be made. Unlike law suits the consequences of delay and postponement of this type of proceeding are potentially very serious. We will continue to try to accommodate hearing dates within reason but we cannot in good conscience regard participation in other proceedings to be a justification for not meeting deadlines. If Counsel are to continue to participate in more than one case at a time they simply must be prepared to make arrangements for handling the case load.

2. The motion of the State of Kansas for an extension of time to January 10, 1972 is granted.

3. The motions of Saginaw intervenors dated December 7, 1971 are denied. Motions 1 and 4 would require a radical re-shaping of the system of review provided by the Atomic Energy Act. It may be that as has been suggested some participation by intervenors in the staff review process would be appropriate but this is not the time or the forum to re-write the rules. The Board would be disposed to deny 2 and 3 for the reasons suggested in the staff answer. In any event, since the motions pertain to Emergency Core Cooling Systems they are moot under the Board's order of December 22, 1971. Motion number 5 is denied on the understanding that the staff will furnish a list of documents in accordance with the undertaking in their answers to the motions.

4. The request by the Mapleton intervenors to have the technical members of the Board "disclose their technical qualifications to judge environmental issues" is denied. The request is without basis in law. The clear implications of the request would require that the boards be composed of "renaissance men" qualified in all branches of human knowledge, or that several hearing boards to hear questions in various disciplines would have to be convened. Whatever the requirements of the National Environmental Policy Act that agencies pursue an interdisciplinary approach may mean it cannot be construed to require the creation of separate boards to hear these questions.

FOR THE ATOMIC SAFETY AND LICENSING BOARD



Arthur W. Murphy, Chairman

Dated: January 6, 1972

Reg files

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

1-6-72

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

Docket No. 50-329, 830

CERTIFICATE OF SERVICE

I hereby certify that copies of the ORDER dated January 6, 1972 in the captioned matter have been served on the following by deposit in the United States mail, first class or air mail, this 6th day of January 1972:

Arthur W. Murphy, Esq., Chairman
Atomic Safety and Licensing Board
Columbia University School of Law
435 West 116th Street, Box 38
New York, New York 10027

Richard G. Smith, Esq.
Smith & Brooker, P. C.
703 Washington Avenue
Bay City, Michigan 48706

Dr. Clark Goodman
Professor of Physics
University of Houston
3801 Cullen Boulevard
Houston, Texas 77004

Harold P. Graves, Esq.
Vice President and General
Counsel

John K. Restrick, Esq.
Consumers Power Company
212 West Michigan Avenue
Jackson, Michigan 49201

Dr. David B. Hall
Los Alamos Scientific Laboratory
P. O. Box 1663
Los Alamos, New Mexico 87544

Mr. R. C. Youngdahl
Senior Vice President
Consumers Power Company
212 West Michigan Avenue
Jackson, Michigan 49201

Dr. Stuart G. Forbes
100 Tennessee Avenue, Apt. 37
Redlands, California 92373

Honorable Frank Olds, Chairman
Midland County Board of Supervisors
623 St. Charles Street
Midland, Michigan 48640

Thomas F. Engelhardt, Esq.
David E. Kartalia, Esq.
Robert Newton, Esq.
Regulatory Staff Counsel
U. S. Atomic Energy Commission
Washington, D. C. 20545

Honorable Jerome Maslowski
Assistant Attorney General
State of Michigan
Seven Story Office Building
525 West Ottawa
Lansing, Michigan 48913

Robert Lowenstein, Esq.
Jerome E. Sharfman, Esq.
Lowenstein, Newman & Reis
1100 Connecticut Avenue, N. W.
Washington, D. C. 20036

Honorable Curtis G. Beck
 Assistant Attorney General
 State of Michigan
 Seven Story Office Building
 525 West Ottawa
 Lansing, Michigan 48913

Myron M. Cherry, Esq.
 Suite 1005
 109 North Dearborn Street
 Chicago, Illinois 60602

Anthony Z. Roisman, Esq.
 Berlin, Roisman and Kessler
 1712 N Street, N. W., 4th Floor
 Washington, D. C. 20036

James A. Kendall, Esq.
 Currie and Kendall
 135 North Saginaw Road
 Midland, Michigan 48640

Dr. Wayne E. North, Chairman
 Midland Nuclear Power Committee
 P. O. Box 335
 Midland, Michigan 48640

Milton R. Wessel, Esq.
 J. Richard Sinclair, Esq.
 Allen Kezsbom, Esq.
 Kaye, Scholer, Fierman, Hays
 and Handler
 425 Park Avenue
 New York, New York 10022

William A. Groening, Jr., Esq.
 James N. O'Connor, Esq.
 The Dow Chemical Company
 2030 Dow Center
 Midland, Michigan 48640

William J. Ginster, Esq.
 Merrill Building, Suite 4
 Saginaw, Michigan 48602

Mr. Wendell H. Marshall
 RFD No. 10, Mapleton
 Midland, Michigan 48640

Irving Like, Esq.
 Reilly, Like and Schneider
 200 West Main Street
 Babylon, New York 11702

Honorable William H. Ward
 Assistant Attorney General
 State of Kansas
 Topeka, Kansas 66612

Patricia D. Kreutzer
 Office of the Secretary of the Commission

cc: Mr. Murphy
 Mr. Engelhardt
 Mr. Goodrich
 N. Brown
 Reg. Files