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September 11, 1973

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POOR QUALITY PAGES



Jerome Garfinkel, Esq.
Chairman
Atomic Safety and Licensing Board
Atomic Energy Commission
Washington, D. C. 20545

Re: Consumers Power Company - Midland
AEC Docket Nos. 50-329A, 50-330A

Dear Chairman Garfinkel:

In denying our "Motion to Limit Discovery and Issues and Alternatively for Summary Finding Requiring Imposition of License Conditions" filed August 28, 1973 Judge Clark stated that one of the reasons for denial of the motion was our failure to submit an affidavit. While I recognize that the motion was denied on substantive grounds, as well as the failure to supply an affidavit, I wish to cure the procedural defect. Our failure to submit an affidavit was inadvertent.

The motion is a legal motion, stating the reasons why, as a matter of law, we believe Consumers Power's defenses to be insufficient. Therefore, under Section 2.749 of the Atomic Energy Commission Rules, the supporting attorney's affidavit is sufficient. As I stated above, I omitted this inadvertently when I filed the pleading on August 28, 1973. Appendix C contains Intervenor's proposed license conditions. Appendix A is copied from the Supreme Court appendices in Otter Tail Power Co. v. U. S., O. T. No. 71-991. Appendix G contains a copy of a Federal Power Commission order. The other materials in the appendices are taken from discovery,

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Jerome Garfinkel, Esq.

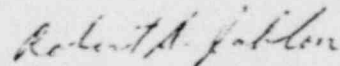
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deposition materials or letters from Consumers Power Company or their attorneys. Therefore, this material must be deemed to be factually correct.

In the attached affidavit I do attest that I am familiar with the matters set forth in our motion and with the contents thereof, and that to the best of my knowledge they are true and correct. I hope that this affidavit is sufficient to support our motion and that it is accepted by the Board. Please excuse the fact that it was not filed originally with the pleading.

Very truly yours,



Robert A. Jablon

RAJ/njz

Enclosure

cc: Board members

All parties to proceeding

UNITED STATES OF AMERICA
BEFORE THE
ATOMIC ENERGY COMMISSION



In the Matter of)
) Docket Nos. 50-329A
Consumers Power Company) 50-330A
(Midland Plant, Units 1 and 2))

A F F I D A V I T

DISTRICT OF COLUMBIA, SS:

Robert A. Jablon, being first duly sworn, deposes and says that he is an attorney for the municipals of Coldwater, Holland, Grand Haven, Traverse City and Zeeland, Michigan, the Michigan Municipal Electric Association, and the Wolverine and Northern Michigan Electric Cooperatives; and that as such he has signed the Motion to Limit Discovery and Issues and Alternatively for Summary Finding Requiring Imposition of License Conditions filed on August 28, 1973, for and on behalf of said parties; that he is authorized so to do; that he has read said Motion and is familiar with the contents thereof; and that the matters and things therein set forth are true and correct to the best of his knowledge, information or belief.

He further deposes and says that the materials copied in the appendices were taken from the sources indicated and that the materials from discovery, depositions and

statements of counsel by Consumers Power Company on their
face support the purposes for which they are cited.

Robert A. Jablon

Robert A. Jablon

Subscribed and sworn to before
me this 11th day of September, 1973.

Notary Public

My commission expires: September 30, 1974