

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

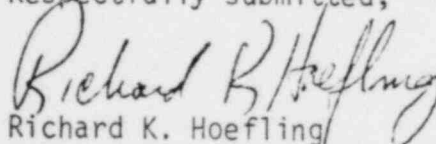
In the Matter of )  
 )  
CONSUMERS POWER COMPANY ) Docket Nos. 50-329  
 ) 50-330  
(Midland Plant, Units 1 and 2) )

APPLICATION FOR THE ISSUANCE OF A SUBPOENA

The United States Nuclear Regulatory Commission Staff (Staff) hereby applies to the Atomic Safety and Licensing Board (Board) pursuant to 10 C.F.R. §2.720 to issue the attached subpoena to Dr. Richard J. Timm, 1038 Cascade Drive, N. W., Salem, Oregon 97304, commanding him to appear for the purpose of the taking of his deposition at the time and place and to bring with him the documents described in the attached subpoena.

The Staff seeks to take Dr. Timm's deposition in response to the Board's order<sup>1/</sup> to the Staff to investigate the allegations made by Counsel for All Intervenors Other Than Dow<sup>2/</sup> regarding purported inconsistencies between the testimony of Consumers Power Company before this Board and the testimony presented by Consumers to the Michigan Public Service Commission in its rate application of January 18, 1977. Dr. Timm was the source of the allegations.

Respectfully submitted,

  
Richard K. Hoefling  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 8th day of April, 1977.

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<sup>1/</sup> The Board's order to the Staff is set out at Tr. 5053 (March 24, 1977).

<sup>2/</sup> Intervenors' allegations are set out at Tr. 5039, 5043-44 (March 24, 1977).

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	)	50-330
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SUBPOENA

TO: Dr. Richard J. Timm  
1038 Cascade Drive, N. W.  
Salem, Oregon 97304

YOU ARE HEREBY COMMANDED to appear at the Holiday Inn, 745 Commercial Street, Salem, Oregon 97301, at 9:30 a.m. on April 20, 1977 before a certified shorthand reporter and Notary Public in the State of Oregon authorized to administer oaths by the laws of the State of Oregon, for the purpose of giving evidence and testifying in a deposition concerning all matters related to allegations that there are inconsistencies between the testimony presented by Consumers Power Company in this proceeding and the testimony presented by Consumers to the Michigan Public Service Commission in its rate application of January 18, 1977.

YOU ARE FURTHER COMMANDED to bring with you at said time and place, the documents and things described in Attachment A hereto and incorporated herein.

Your failure to appear may result in an application to a Court of competent jurisdiction to require your appearance upon pain of contempt.

You are further advised that on motion made promptly, and in any event at or before the time specified in the subpoena for compliance by you, and on notice to the party at whose instance this subpoena was issued, the undersigned, or if he is unavailable, the Commission may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion on just and reasonable terms.

FOR THE ATOMIC SAFETY AND LICENSING BOARD

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Dated this \_\_\_\_ day of April  
at \_\_\_\_\_.

This subpoena was issued on the application of the NRC Staff by its attorney Richard K. Hoefling, U. S. Nuclear Regulatory Commission, Washington, D. C. 20555 (301) 492-7501

ATTACHMENT A

The Deponent is instructed to bring to the deposition all documents, including correspondence, reports and all other written or recorded material of any kind or character, which:

1. have been prepared by the Deponent and relate to the allegations of inconsistency between the testimony of Consumers Power Company in this proceeding and the testimony presented by Consumers to the Michigan Public Service Commission in its rate application of January 18, 1977
2. have been received by the Deponent and relate to the allegations of inconsistency between the testimony of Consumers Power Company in this proceeding and the testimony presented by Consumers to the Michigan Public Service Commission in its rate application of January 18, 1977
3. contain facts or opinions upon which the Deponent relied and relate to the allegations of inconsistency between the testimony of Consumers Power Company in this proceeding and the testimony presented by Consumers to the Michigan Public Service Commission in its rate application of January 18, 1977.

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(Midland Plant, Units 1 and 2) ) 50-330

CERTIFICATE OF SERVICE

I hereby certify that copies of "NOTICE OF DEPOSITION" and "APPLICATION FOR ISSUANCE OF A SUBPOENA" both dated April 8, 1977 and "SUBPOENA" (undated) have been served on the following by deposit in the United States mail, first class or air mail, this 8th day of April, 1977:

Frederic J. Coufal, Esq., Chairman  
Atomic Safety and Licensing Board  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Dr. J. Venn Leeds, Jr.  
Atomic Safety and Licensing Board  
10807 Atwell  
Houston, Texas 77096

Dr. Emmeth A. Luebke  
Atomic Safety and Licensing Board  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Myron M. Cherry, Esq.  
1 IBM Plaza  
Chicago, Illinois 60611

Judd L. Bacon, Esq.  
Consumers Power Company  
212 West Michigan Avenue  
Jackson, Michigan 49201

Honorable Curt T. Schneider  
Attorney General  
State of Kansas Statehouse  
Topeka, Kansas 66612

Ms. Mary Sinclair  
5711 Summerset Street  
Midland, Michigan 48640

Harold F. Reis, Esq.  
Robert Lowenstein, Esq.  
Lowenstein, Newman, Reis &  
Axelrad  
1025 Connecticut Avenue  
Washington, D. C. 20036

L. F. Nute, Esq.  
Dow Chemical, U.S.A.  
Michigan Division  
Midland, Michigan 48640

Mr. Steve Gadler  
2120 Carter Avenue  
St. Paul, Minnesota 55108

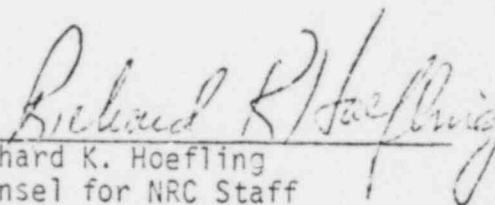
R. Rex Renfrow, III, Esq.  
David J. Rosso, Esq.  
Isham, Lincoln & Beale  
One First National Plaza  
Suite 4200  
Chicago, Illinois 60603

Atomic Safety and Licensing  
Board Panel  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Dr. Richard J. Timm  
1038 Cascade Drive, N. W.  
Salem, Oregon 97304

Atomic Safety and Licensing  
Appeal Panel  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Docketing and Service Section  
Office of the Secretary  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

  
Richard K. Hoefling  
Counsel for NRC Staff