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May 26, 1977



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

Re: Consumers Power Company
Midland Palnt
Docket Nos. 50-329 and 50-330

Dear Chairman Coufal:

Enclosed please find two documents:

1. The objections of Intervenors other than Dow to certain portions of the unbound rebuttal testimony submitted by Consumers on May 20, 1977. These objections concern portions of that new matter which, for the reasons stated in the objections, fall outside the scope of the Board's orders concerning rebuttal testimony at this point.

2. The affidavit of Dr. Richard J. Timm in response to the rebuttal testimony. This affidavit deals with both the rebuttal testimony bound in a special transcript volume on March 23, 1977 (which, pursuant to the Board's order, was not shown to or reviewed by Dr. Timm until after his cross-examination was completed two weeks ago), and the unbound rebuttal testimony tendered on May 20, 1977, to the extent that the testimony concerns Dr. Timm's own testimony. Included in Dr. Timm's affidavit are responses to most of the Consumers' unbound rebuttal to which we have objected. If the Board decides to admit part or all of the testimony to which we have objected, then Dr. Timm's response to that testimony must also be considered.

Because of the severe constraints imposed on Dr. Timm by the very short time within which his affidavit had to be prepared (and during which he was also working full time as Supervisor of Energy Planning for the State of Oregon) and by the sheer bulk of the rebuttal testimony, Dr. Timm was unable to include in his affidavit any response to the unbound rebuttal testimony of James H. Climer and Robert J. Ringlee. We have objected to the testimony of Messrs. Climer and (in part) Ringlee. If our objection is sustained, no difficulty arises. If our objection to the Climer and Ringlee testimony is not sustained, however, then--as is explained in the enclosed objections--we ask that Dr. Timm be given the opportunity to prepare and submit a short supplemental affidavit responding to the Climer and Ringlee material. That is only fair, since no cross-examination can be had as to the new

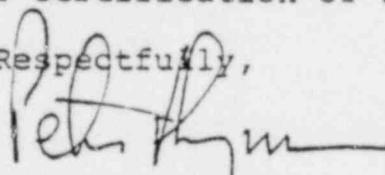
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matter in the Climer and Ringlee testimony.

Because both Dr. Timm's affidavit and the enclosed objections are being delivered by special messenger, and in order to facilitate timely delivery to all parties, we have taken the liberty of enclosing, together with this letter and your copies of the affidavit and objections, additional copies of the affidavit and objections for Dr. Luebke, the Commission Staff, and the Commission Docketing and Services Section. We would greatly appreciate it if you would transmit those copies to their respective recipients.

We have also transmitted copies of the affidavit and objections to Dr. Leeds by separate special messenger, and will hand deliver copies to counsel for Consumers tomorrow morning. We have mailed copies to counsel for Dow Chemical Company, air mail/special delivery, contemporaneously with dispatch of this letter. This letter (a copy of which we are also transmitting to the Service List) will also serve as our certification of service.

Respectfully,



Peter A. Flynn

PAF:es
enclosures
cc: Service List