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May 4, 1971

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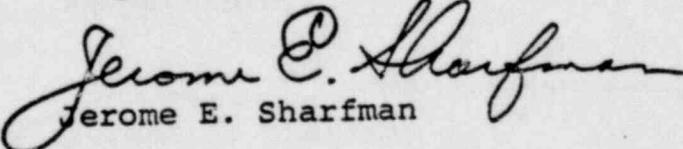
Re: Consumers Power Company - Midland
Plant Units 1 and 2 - Docket Nos.
50-329 and 50-330

Gentlemen:

At the close of the conference in New York on May 1, 1971 in the above-entitled proceeding, Chairman Murphy suggested that each party submit a proposed order dealing with all the matters discussed at that conference and still left open.

I enclose herewith the proposed order of Applicant Consumers Power Company.

Respectfully,


Jerome E. Sharfman

JES:sb

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Proposed Order
Submitted on Behalf of
Applicant

UNITED STATES OF AMERICA
ATOMIC ENERGY 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))

ORDER

The Board, having heard argument by attorneys representing the various parties in this proceeding at a conference held in New York City on May 1, 1971, issues this order to establish dates and procedures for remaining pre-hearing steps and for the commencement of the hearing.

The Board believes that all parties have had reasonable opportunity to obtain evidence and prepare for the hearing. The Board plans to commence the hearing on June 1, 1971, and expects to continue the hearing without interruption, except for weekend recesses and legal holidays until the hearing has been concluded. At the hearing the Board will receive evidence to be submitted on behalf of the parties with regard to all nuclear and radiological health and safety matters within the scope of the notice of hearing issued by the Commission dated October 29, 1970. The Board is of the view that any evidence which any party desires to submit with regard to the environmental impact of radioactivity in effluents from the plant would be within the scope of that notice of hearing.

1. As was stated at the conference on May 1 (Tr. 1126), the objections to requiring the ACRS to answer any interrogatories addressed to it by the Saginaw intervenors are sustained and the objections to interrogatories 1 through 232 addressed to the AEC by said intervenors, because they duplicate the interrogatories addressed to the applicant, are sustained. The Board will also issue a separate order ruling preliminarily on objections to the remaining interrogatories addressed to the AEC by the Saginaw intervenors. That order will identify those matters concerning which responses should be filed by the AEC. Those responses shall be filed within 10 days after issuance of said order.
2. The Saginaw intervenors' brief answering the briefs filed by applicant and the AEC staff concerning objections to the interrogatories addressed to the AEC and ACRS by said intervenors shall be filed on or before May 8, 1971.
3. After receiving the intervenors' brief in support of the interrogatories to the AEC and ACRS, we will reconsider paragraph 1 of this order and our separate order described therein and we will issue an order finally ruling upon the objections to those interrogatories and specifying the time for the AEC to answer any interrogatories we allow for which no time was previously specified.
4. At the conference on May 1, there was discussion concerning intervenors' contentions with regard to the alleged

invalidity of Appendix D, 10 CFR Part 50 and 10 CFR Part 20. The Board offered intervenors opportunity to make an offer of proof with regard to factual information on which intervenors base their contentions that Appendix D and Part 20 are invalid and that an evidentiary hearing should be held on these issues.

Any offer of proof by any intervenor with regard to the alleged invalidity of Appendix D, 10 CFR Part 50 or 10 CFR Part 20 shall be filed on or before May 15, 1971.

5. Various parties in this proceeding have served interrogatories on other parties. Except for the interrogatories addressed to the AEC and ACRS, answers to those interrogatories have been served. There was discussion at the May 1 conference of the general nature of the Saginaw intervenors' objections to the applicant's and to Dow's answers, but the Board decided at the conference that their objections to answers should be set forth in writing. Accordingly, the Board directs that any objections as to the adequacy of any answers to interrogatories shall be set forth in writing and filed on or before May 10, 1971.

6. At the conference on May 1, the Saginaw intervenors claimed that material in some of the documents of applicant which had been made available to them showed that the Board's rulings sustaining some objections of applicant to their interrogatories should be reconsidered. The Chairman suggested that the Saginaw intervenors submit a written motion to this effect. This motion shall be filed on or before May 10, 1971.

7. In accordance with the Board's order dated March 3, 1971, opposition intervenors shall file all of their direct evidence in support of their contentions in writing, including written sworn testimony and copies of documentary evidence, if any, on or before May 15, 1971. The written evidence furnished by intervenors shall include identification of the individual or individuals who will constitute intervenors' witness or witnesses with regard to each subject matter covered by the evidence.

8. The applicant and supporting intervenors shall file their written evidence and supporting documents in opposition to the intervenors' contentions, including names of witnesses, on or before May 28, 1971.

9. The hearing will commence at 10:00 a.m. on June 1, 1971 in the Auditorium of the Grace Dow Memorial Library, 1710 West St. Andrews Road, Midland, Michigan. The Board expects to continue the hearing without adjournment, except to recess for weekends and legal holidays, until the hearing is concluded.

10. A further pre-hearing conference shall be held at the Association of the Bar of the City of New York, 42 West 44th Street, in New York City on May 17, 1971. The Board expects this to be the last pre-hearing conference before the commencement of the hearing. Its principal purpose will be to expedite the hearing through the identification

of particular matters at issue and the scheduling of those matters to be taken up during the course of the hearing. Although it may not be practicable to assign specific dates to each of the matters, the Board plans, prior to the commencement of the hearing, to decide upon the sequence in which particular matters will be heard.

The Board would appreciate receiving written suggestions from the parties as to matters which should be considered at this conference. These should be filed by May 10, 1971.

The Board presumes that the written evidence submitted on behalf of the parties will be the basis for the Board's definition of the matters in controversy. The Board would expect to define these issues at the conference and to issue an appropriate preclusionary order based upon that definition.

11. The AEC staff has advised that it may request additional technical information from the applicant in connection with applicant's Amendment 20 to the PSAR. In addition, the staff has advised that it will request comments from the applicant with regard to the comments received by AEC on the AEC draft detailed environmental statement. The applicant has advised that it will, on or before May 15, file its comments on all agency comments received prior to May 1, 1971; and that it will comment on any remaining agency comments within 7 days after receiving such agency comments.

In view of the fact that the applicant will be furnishing its comments on a somewhat staggered basis, it appears reasonable to require that AEC's final detailed environmental statement be filed within 14 days after receiving the last comments from the applicant.

For the Atomic Safety and
Licensing Board

Arthur W. Murphy, Chairman

Dated: May __, 1971