

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

Docket Nos. 50-329
50-330

AEC REGULATORY STAFF'S ANSWER TO MOTION BY
MAPLETON INTERVENORS TO DENY INTRODUCTION
INTO EVIDENCE OF STATEMENT OF DR. GYSEL
OR ALTERNATIVELY TO PERMIT INTRODUCTION
INTO EVIDENCE OF A STATEMENT BY
DR. HOLCOMB IN RESPONSE TO THE
STATEMENT OF DR. GYSEL

1. On July 10, 1972, pursuant to the Atomic Safety and Licensing Board's Post Hearing Order dated June 28, 1972, the applicant served written rebuttal testimony to the testimony of Dr. Larry C. Holcomb given on June 14, 1972. This rebuttal testimony consisted of two affidavits, one by Dexter James Seeburger and one by Dr. Leslie Gysel.
2. By letter dated August 8, 1972, the Mapleton Intervenor moved, in effect, for the exclusion from evidence of Dr. Gysel's affidavit and, alternatively, offered into evidence a statement of Dr. Holcomb dated July 17, 1972, in response to the Gysel affidavit.
3. The apparent nub of the Mapleton Intervenor's complaint is their lack of opportunity to cross-examine Dr. Gysel. We have reviewed the testimony offered by both parties and do not believe that the intervenors

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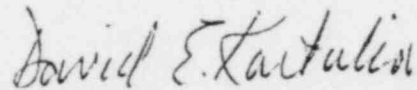
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would in fact be prejudiced if Dr. Holcomb's statement were received into evidence as an alternative to cross-examination of Dr. Gysel. However, we believe that the intervenors should be given the opportunity to demonstrate in writing the prejudice they believe would result from this procedure. Should they demonstrate actual prejudice to the Board, we would have no objection to a one-day hearing (which might be held in New York City) to give Mapleton the opportunity to conduct its cross-examination of Dr. Gysel.

4. As indicated above, in the event the Board ultimately denies an opportunity for cross-examination of Dr. Gysel, we would have no objection to the receipt of Dr. Holcomb's statement into evidence.

Respectfully submitted,



David Kartalia
Counsel for AEC Regulatory Staff

Dated at Bethesda, Maryland,
this 18th day of August, 1972.