

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION



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

Docket Nos 50-329
50-330
7-21-71

DOW PROPOSED SCHEDULE FOR
FURTHER PROCEEDINGS

This memorandum is submitted in support of Dow's motion that a schedule be fixed for the balance of these proceedings.

The purpose of such a schedule is twofold:

First, to expedite the proceeding by completing as much as possible during the recess before the ECCS evidence is received and the Fall commencement of the school year.

Second, to obtain an advance expression from the Board of its preliminary views, particularly with respect to siting.

Reason for Ex-
pediting Decision:

By now the importance of the proposed Midland nuclear plant to Dow's Midland plant is certainly apparent to the parties. Indeed, it may well be that the matter is more compelling to Dow than to Applicant. Applicant can choose to locate a nuclear plant elsewhere; Dow's Midland plant can not.

Dow corporate planning problems are perhaps even more urgent today than they were when this Hearing commenced on

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November 17, 1970 (Tr. 52-8). Its contract with Applicant has been reconsidered and extended each six months, and was renewed again on July 1, 1971 for six further months to January 1, 1972 (See Appendix A, attached)--but once more only after the most extensive and exhaustive re-evaluation of operations and probing of corporate alternatives.

To the extent that procedural matters can be completed during the ECCS recess, the ultimate decision will of course be expedited. This is especially true in light of the university schedule beginning in the Fall, which might preclude the devotion of continuing extended time to this matter by the Board.

Moreover, some advance knowledge of the Board's preliminary views with respect to the matters already submitted and closed would be most helpful to all parties, especially insofar as the matter of siting in Midland is concerned. Dow believes that a nuclear power plant can and should be built in Midland; if it is wrong, it wishes to know as soon as possible. The knowledge that a nuclear power plant can and will be built in Midland--even if some reasonable delay is necessary to resolve ECCS matters--is obviously equally of great importance. (See Tr. 3232).

Dow's Proposed
Schedule:

In view of the foregoing, Dow makes the following suggestions:

NON-ECCS ISSUES

Wednesday, July 21: Last day for oral examination on quality assurance and quality control areas specified at Tr. 4168, 4177.

Friday, July 23: Last day for examination of Sgt. Donald M. Holmes.

No further oral evidence to be adduced by any party, except by leave of the Hearing Board.

Monday, July 26: Last day for Saginaw to serve and file its diesel redundancy written questions.

Friday, July 30: Last day for Saginaw to serve and file written evidence on the following issues:

- (a) Validity of Part 20 in light of Dow effluents.
- (b) Quality assurance and quality control in limited areas specified at Tr. 4168, 4177.

Last day for Applicant to serve and file its written responses to diesel redundancy questions and its written submissions in response to Saginaw Exhibits 17-27.

Friday, August 6: Last day for Applicant and Dow to serve and file written evidence in response to Saginaw July 30 submissions.

Last day for Saginaw to serve and file written evidence in response to Applicant's diesel responses.

Hearing Record closed with respect to all except evidence on the ECCS issue.

- Friday, August 13: Last day for Applicant to serve and file proposed findings of fact and conclusions of law and briefs, and a proposed form of order or decision, pursuant to §2.754 (b)(1) and (c), on all except ECCS issue.
- Friday, August 27: Last day for all other parties to serve and file papers responsive to Applicant's August 13 submission, pursuant to §2.754 (b)(2) and (c).
- Friday, September 3: Last day for Applicant to reply to August 27 submissions, pursuant to §2.754(b)(3) and (c).
- Following September 3: The Hearing Board will determine whether and the extent to which it will hear oral argument, pursuant to §2.755
- Following oral argument (if any): The Hearing Board will prepare its preliminary and tentative Initial Decision on all other than ECCS matters, pursuant to §2.760(a).
- (a) Within 20 days thereafter, any party may serve and file exceptions and briefs, pursuant to §2.762(a).
 - (b) Within 10 days thereafter, any party may serve and file responsive papers, pursuant to §2.762(b).
 - (c) Thereafter the Hearing Board will determine whether and the extent to which it will allow oral argument with respect to exceptions or briefs, pursuant to §2.763.

ECCS ISSUE

- Friday, August 20: Last day for Applicant to serve and file responses to AEC Staff's ECCS questions dated July 14, 1971, or to formally move the Board for further time pursuant to §2.730, stating specifically its reasons for failure to comply.

Friday, September 3: Last day for AEC Staff to serve and file its evaluation or other final response to Applicant's further ECCS submission, or to formally move the Board for further time pursuant to §2.730, stating specifically its reasons for failure to comply.

Monday, September 13: Last day for all parties to serve and file written evidence on the ECCS issue and/or Offers of Proof pursuant to §2.743(e), specifying in detail the nature of the additional oral testimony they desire to adduce, if any.

Friday, September 17: Last day for all parties to serve and file written evidence and/or objections to Offers of Proof, in response to September 13 ECCS submissions.

Following September 17: The Hearing Board will determine whether and the extent to which it will reopen the Record to receive such written evidence and/or further oral testimony.

After Close of
ECCS Record: The parties may serve and file proposed findings of fact and conclusions of law and briefs, and a proposed form of order or decision, all limited strictly to the ECCS issue, and responsive papers, argument and further proceedings on the ECCS issue will follow in accordance with §§2.754, 2.755, 2.760, 2.762 and 2.763 and further directions of the Hearing Board.

CONCLUSION

The procedure proposed above may not be the usual one, but it is certainly well within the Board's discretion.*

* See especially §§2.718(e)(1), 2.731, 2.743(b), 2.756 and Appendix A to Part 2, especially the final sentence of the fourth paragraph reading: "The Statement, [Appendix A] reflects the Commission's intent that such proceedings be conducted informally and expeditiously and its concern that its procedures maintain sufficient flexibility to accommodate that objective", and citations referred to in this memorandum .

The importance to all parties--including the public and Opposing
Intervenors-- that there be a fair and proper decision at the
earliest reasonable time is compelling. Precedent should not pre-
clude the Board from fashioning lawful procedures which will be
helpful in limiting the delay which might otherwise result.

Dated: Midland, Michigan
July 21, 1971

Respectfully submitted,

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