

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of	}	
CONSUMERS POWER COMPANY		Construction Permit,
(Midland Plant, Units 1 and 2)		Nos. 81 and 82 (Show Cause)

50-57-330

AEC REGULATORY STAFF'S OPPOSITION TO
MOTION BY SAGINAW GROUP FOR
EXTENSION OF TIME

On September 30, 1974, the Saginaw Group filed a motion with the presiding Atomic Safety and Licensing Appeal Board requesting a time extension within which to file exceptions to the Initial Decision of the Atomic Safety and Licensing Board. The Staff believes Saginaw's motion fails to show good cause.

The first reason set forth by Saginaw is that it was served with an incomplete copy of the Initial Decision. No elaboration is furnished and no prejudice is shown. A letter dated September 28, 1974 to the Secretary of the Commission from Saginaw's counsel states his copy of the opinion is "missing several pages". Counsel could be missing the service of process pages which would not affect his ability to file within the time provided. In order to determine the significance of the missing material counsel should specify which pages he does not have otherwise Staff must view this as another dilatory tactic with which this record is already replete.

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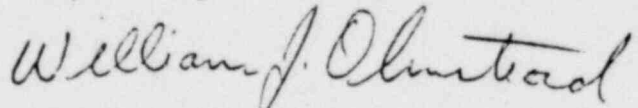
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The second reason advanced by Saginaw to justify its request is a classic example of circular reasoning. Counsel suggests that a time extension for exceptions should be granted because he has filed a motion for reconsideration and/or to reopen the record. If this rationale were adopted no matter could ever be concluded if a party to a proceeding did not want the record closed. All that would be necessary would be a continuous flow of motions upon motions. A party could always justify an extension request on the grounds that another motion was still pending and had not been ruled upon. Since rulings must always be subsequent to some earlier action the record could never be closed.

For the foregoing reasons and because counsel is required to make a good cause showing under 10 CFR § 2.711 and has failed to show any prejudice as a result of receiving an assertedly incomplete Initial Decision, the Saginaw motion for an extension of time in which to file exceptions should be denied.

Respectfully submitted,



William J. Olmstead
Counsel for AEC Regulatory Staff

Dated at Bethesda, Maryland
this 9th day of October, 1974.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "AEC Regulatory Staff's Opposition to Motion by Saginaw Group for Extension of Time", dated October 9, 1974 in the captioned matter have been served on the following by hand delivery or by deposit in the United States mail, first class or air mail, this 9th day of October, 1974:

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