

10/15/74

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

BEFORE THE
ATOMIC SAFETY AND LICENSING APPEAL BOARD

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

MEMORANDUM OF CONSUMER POWER COMPANY IN
OPPOSITION TO THE MOTION OF THE SAGINAW
INTERVENORS FOR AN EXTENSION OF TIME TO
FILE EXCEPTIONS

On September 30, 1974, Saginaw Intervenors moved the Atomic Safety and Licensing Board for an extension of time within which to file exceptions to the Initial Decision of the Board dated September 25, 1974, stating that Saginaw had been served with only an incomplete copy of the Initial Decision. Consumers Power Company opposes the motion for an extension of time.

On October 3, 1974, following receipt of the Saginaw Intervenor's motion, attorneys for Consumers Power Company sent to the attorney for the Saginaw Intervenors a complete copy of the Initial Decision of the Atomic Safety and Licensing Board in connection with Consumers Power Company (Midland Plant, Units 1 and 2) Construction Permit Nos. 81 and 82 (Show Cause) dated September 25, 1974. This Decision was sent via messenger together with a cover letter dated October 3, 1974, a copy of which is attached hereto as "Exhibit A." Since the Saginaw Intervenors have not filed exceptions to the Initial Decision within 7 days after receipt of a completed copy, as required

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by 10 CFR Sec. 2.762(a), their motion for an extension of time should be denied.


As additional grounds for their motion, the Saginaw Intervenors cite a motion for reconsideration and/or to reopen the record filed by themselves on the same day. If the filing of a frivolous motion of that type were grounds to delay the deadline for filing exceptions, the 7 day period established by the regulations could be prolonged indefinitely. 10 CFR Sec. 2.762(a) does not permit this result. If in fact the Board decides to reopen the record or to reconsider its Initial Decision, the Saginaw Intervenors will have ample opportunity to file additional exception to any later decision of the Board incorporating this reconsideration.

For all the foregoing reasons, the Saginaw Intervenors' motion for extension of time should be denied.


Respectfully submitted,



Michael I. Miller



R. Rex Renfrow III



Paul M. Murphy

Attorneys for Licensee
Consumers Power Company

DATED: October 15, 1974

ISHAM, LINCOLN & BEALE
One First National Plaza, Suite 4200
Chicago, Illinois 60603
(312) 786-7500

October 3, 1974

Law Offices
Myron W. Cherry
One IBM Plaza
Chicago, Illinois 60611

Re: Initial Decision - Construction
Permit #31 and #32

Dear Sir:

Michael Miller has asked me to provide you with a complete copy of the Licensing Board's Initial Decision in connection with Consumers Power Company's Midland Plant, Units 1 and 2 Construction Permit Nos. 31 and 32 (Show Cause) dated September 25, 1974. Accordingly I have made a duplicate of our copy, carefully checked it to verify that it contains all pages and I am transmitting it herewith via messenger.

Sincerely,

Paul M. Murphy

PMM:lb

Enclosure

cc: Michael Glaser
Lester Korblith, Jr.
Ernest A. Luebke
James P. Murray, Jr.
Laurance M. Scoville

EXHIBIT A

UNITED STATES OF AMERICA

ATOMIC ENERGY COMMISSION

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

NOTICE OF FILING
AND
PROOF OF SERVICE

50-33-

TO: Mr. Richard S. Salzman
Chairman
Atomic Safety and Licensing Appeal Board
U.S. Atomic Energy Commission
Washington, D. C. 20545

Mr. Michael C. Farrar
Member
Atomic Safety and Licensing Appeal Board
U.S. Atomic Energy Commission
Washington, D. C. 20545

Dr. Lawrence R. Quarles
Member
Atomic Safety and Licensing Appeal Board
U.S. Atomic Energy Commission
Washington, D. C. 20545

Atomic Safety and Licensing Board Panel
U.S. Atomic Energy Commission
Washington, D. C. 20545

Secretary
U.S. Atomic Energy Commission
ATTN: Mr. Frank W. Karas
Chief, Public Proceedings Staff
Washington, D.C. 20545

Mr. James P. Murray, Jr.
Chief Rulemaking & Enforcement Counsel
U.S. Atomic Energy Commission
Washington, D.C. 20545

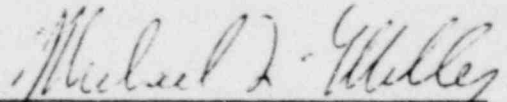
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PLEASE TAKE NOTICE that I have this day filed with the Atomic Energy Commission the Memorandum Of Consumers Power Company In Opposition To The Motion Of The Saginaw Intervenors For An Fxtension Of Time, a copy of which is hereto attached and herewith served on you.



Michael I. Miller

One of the Attorneys for Consumers
Power Company

DATED: October 15, 1974

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