

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

MEMORANDUM OF CONSUMERS POWER COMPANY
IN OPPOSITION TO MOTION FOR EXTENSION OF TIME

Licensee Consumers Power Company opposes the request of the Saginaw Group for additional time within which to file its proposed findings of fact and conclusions of law. The Saginaw Group did not in any way participate in the formulation of the evidentiary record in this proceeding. Its involvement in this proceeding has been limited to a half-hearted participation in the discovery process and an appearance through counsel at two pre-hearing conferences. Indeed, the Saginaw Group's failure to comply with discovery requests and portions of the pre-hearing order, as well as its failure to appear at the evidentiary hearing, warrant its dismissal as a party to this proceeding. The Licensing Board has presently pending before it a motion by Consumers Power Company requesting that such dismissal be ordered.

Under these circumstances, any delay in filing the proposed findings of fact and conclusions of law is unwarranted.

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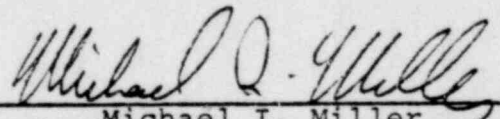
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All other parties have filed their proposed findings and conclusions by the date specified in the Board's order entered at the conclusion of the evidentiary hearing. Thus, to grant the requested motion would enable the Saginaw Group to tailor its proposed findings, not to any evidence in the record which it adduced, but rather to respond to the proposed findings filed by other parties. Reply findings will inevitably be required, and the termination of this proceeding will be unnecessarily delayed.

Finally, the Saginaw Group offers no justification for the requested extension of time, other than the fact that its counsel is "working without fees" and it would be a hardship not to grant the requested additional time. Such a statement is no more than a reiteration that the Saginaw Group is indigent and, therefore, entitled to special consideration in this proceeding. No representations are made about the counsel's other commitments, nor is any reason given why he could not have filed proposed findings and conclusions within the time specified by the Board. The fact that he is working without fees is irrelevant. The Commission has decided that members of the Saginaw Group, the United Automobile Workers and the Sierra Club, have funds available to pay the costs of participating in this proceeding. Those entities have chosen not to do so, but that fact does not render the Saginaw Group indigent and, in any event, is no excuse for tardiness in filing the proposed findings

of fact and conclusions of law. Indeed, the motion for an extension of time was served by mail on August 12, 1974, the date on which the proposed findings of fact and conclusions of law were due. The Appeal Board has expressly disapproved this practice and required motions for extension of time to be received by it no later than one day prior to the due date of the substantive document. "Failure to follow this practice in connection with any motion for an extension of time . . . [provides] a sufficient basis, in and of itself, for denying the motion." (Emphasis in original) In the Matter of Louisiana Power & Light Co. (Waterford Steam Electric Station, Unit 3) (ALAB-117) RAI 73-4, pp. 261-62 (1973)

Respectfully submitted,



Michael I. Miller

One of the Attorneys for Consumers
Power Company

DATED: August 15, 1974

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UNITED STATES OF AMERICA

ATOMIC ENERGY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

215-174

50-327

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

NOTICE OF FILING
AND
PROOF OF SERVICE

TO: Michael Glaser, Esq., Chairman
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1150 17th Street, N.W.
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Secretary
U.S. Atomic Energy Commission
ATTN: Mr. Frank W. Karas
Chief, Public Proceedings Staff
Washington, D. C. 20545

Mr. James P. Murray, Jr.
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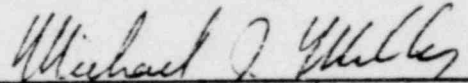
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PLEASE TAKE NOTICE that I have this day filed with
the Atomic Energy Commission the Memorandum Of Consumers Power
Company In Opposition To Motion For Extension Of Time, a copy
of which is hereto attached and herewith served on you.



Michael I. Miller

One of the Attorneys for Consumers
Power Company

DATED: August 15, 1974

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