

UNITED STATES OF AMERICA
NUCLEAR REGULATORY 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

AFFIDAVIT OF MYRON M. CHERRY
IN SUPPORT OF THE
FURTHER RESPONSE IN OPPOSITION TO
CENSURE MOTIONS AND COST MOTIONS AND
STATEMENT IN SUPPORT OF INTERVENORS'
MOTIONS TO STRIKE CERTAIN FILINGS
OF THE REGULATORY STAFF AND CONSUMERS
IN THESE PROCEEDINGS

MYRON M. CHERRY, being first duly sworn on oath, duly states:

1. I am an attorney licensed before numerous courts and agencies, including the Nuclear Regulatory Commission;
2. I have, since approximately 1970, been very active in opposing the Atomic Energy Commission, the Nuclear Regulatory Commission, the nuclear industry, and Consumers Power Company;
3. By and large, my efforts have been successful, but my conduct, thoroughly justified and always responsible, has caused me to incur the enmity of the nuclear industry and Consumers Power Company;
4. My professional representation of anti-nuclear groups has also caused me to earn the enmity of certain AEC officials and now of the NRC. This stems not only from my forceful representation of my clients' interests, but also because of the successful exposure which I and others made in the Emergency Core Cooling System (ECCS) hearings. These exposures dealt with the suppression of evidence

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and other matters which I have referred to in correspondence in the Midland dockets dated April 5, 1977 and May 6, 1977.

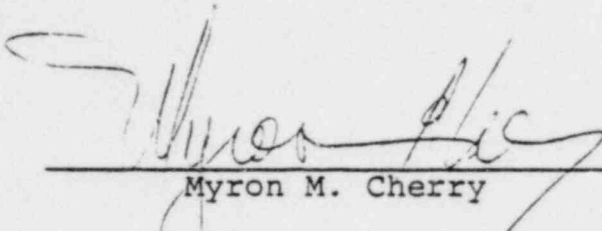
5. Because of efforts made by myself and my clients and Dr. Richard Timm in the Midland proceedings, we have exposed once again the lack of independence and incompetent regulation by the Regulatory Staff. We have also exposed Consumers Power Company's bankrupt case, as well as that company's role in attempting to manipulate testimony in this proceeding. During the entire course of these Midland suspension proceedings, I have vigorously represented my clients and sometimes engaged in heated debate with other lawyers. At no time have I ever done anything which was not in the best interests of my clients as an advocate, and which do not comport with standards of professional conduct;

6. On many occasions, however, I have been the recipient of breaches of professional conduct by other lawyers in these proceedings;

7. Because of the facts stated in accompanying papers, I am informed and believe that the Censure Motion filed by the Regulatory Staff on March 25, 1977, the Response thereto filed by Consumers Power Company on April 4, 1977, and Consumers Power Company's Motion of May 4, 1977 were not pleadings made in good faith, but were calculated to intimidate my representation in these and other cases. I believe an investigation by the Licensing Board will bear out my information and belief;

8. The Motions referred to in the immediately preceding paragraph were, I am informed and believe, filed in bad faith and calculated

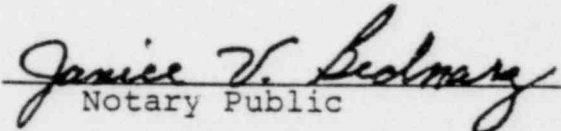
to place a smoke screen over the admissions of record which show that the Regulatory Staff did not do an independent review in this proceeding (among other things) and that Consumers Power Company attempted to manipulate testimony in these proceedings (among other things).



Myron M. Cherry

Subscribed and sworn to

before me this 13th day of May, 1977.



Notary Public