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GEORGE M. STEPHENSON
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April 22, 1971

Arthur W. Murphy, Chairman
Atomic Safety and Licensing Board
Atomic Energy Commission
Washington, D. C. 20545

Re: Matter of Consumers Power Company
(Midland, Michigan Plant)
Docket Nos. 50-329 & 50-330

Dear Mr. Murphy:

This is to advise you that I am the attorney for Steve J. Gadler, P. E., and represent him in the matter of his application to make a limited appearance at the AEC hearings in Midland, Michigan.

I have Mr. Gadler's telegram of November 12, 1970, telegram of December 1, 1970, reciting two phone calls to your staff, Mr. Gadler's letter of December 28, 1970, Mr. David E. Kartalia's (counsel for AEC Regulatory Staff) letter to Mr. Gadler of January 6, 1971, Mr. Gadler's letter to Mr. Kartalia, January 13, 1970, Mr. Kartalia's letter to Mr. Gadler of January 22, 1971, and your letter to Mr. Gadler of February 9, 1971, and Mr. Gadler's response thereto February 16, 1971. Following this exchange of correspondence, telegrams and telephone calls, Mr. Gadler retained me for the purpose of securing the opportunity for his appearance.

Mr. Gadler is a member of the Minnesota Pollution Control Agency, and in addition, is a dedicated professional engineer volunteering his time on matters of ecology and the environment throughout the country. His expertise in the matter of the Midland, Michigan proposal I believe would be invaluable to the Board, and he has, in addition to his professional background, a thorough range of experience and service on a state regulatory agency, including experience and expertise in the area of the impact on the environment by nuclear power plants.

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Mr. Murphy
April 22, 1971
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A review of the facts persuades me that Mr. Gadler made a timely application for a limited appearance pursuant to 19 CFR 2.715 (AEC Commission's Rules of Practice). The timeliness of Mr. Gadler's request was acknowledged by you in your letter of February 9, 1971.

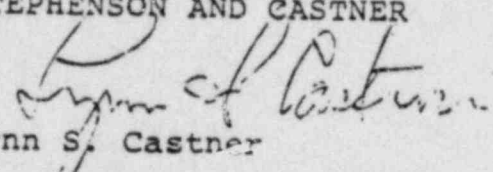
Your suggestion that Mr. Gadler make his appearance by way of written statement to be included in the voluminous record, is unsatisfactory.

In our judgment, the fact that the Board granted permission to approximately 45 persons to make limited appearances, and the fact that you have acknowledged that the agency overlooked Mr. Gadler's timely request for appearance warrants the agency providing an opportunity for Mr. Gadler to make his appearance on the Midland matter at some future time. Mr. Gadler is entitled to the benefits of the laws which guarantee limited appearance to those who apply for it. The agency has it within its power to correct the error it made, and we sincerely request that this error be corrected by furnishing Mr. Gadler the opportunity to make the appearance he has requested.

I look forward to hearing from you at your earliest convenience.

Very truly yours,

STEPHENSON AND CASTNER


Lynn S. Castner

LSC:sh

H. Smith

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

In the Matter of)

CONSUMERS POWER COMPANY)
(Midland Plant, Units 1 and 2))

Docket No. 50-322, 330

CERTIFICATE OF SERVICE

I hereby certify that copies of a letter dated May 11, 1971 from Mr. Wells to Senator Humphrey regarding Gadler's limited appearance request in the captioned matter (with attachments) have been served on the following by deposit in the United States mail, first class or air mail, this 12th day of May 1971:

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Patricia M. [illegible]
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cc: Mr. Murphy
Mr. Engelhardt
Mr. Yore
N. Brown
H. Smith

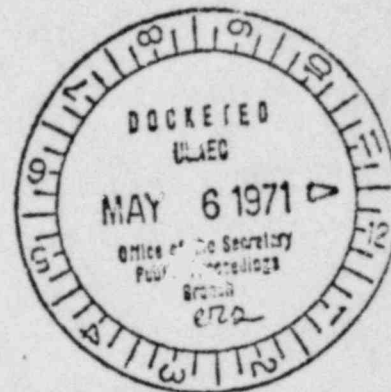
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SCHOOL OF LAW
International Legal Research

435 West 110th Street,

May 4, 1971

Lynn S. Castner, Esq.
Stephenson and Castner
Law Center Building
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Minneapolis, Minnesota 55404



Re: Matter of Consumers Power Company
(Midland, Michigan Plant)
Docket Nos. 90-329 & 90-330

Dear Mr. Castner:

This is in response to your letter of April 21, 1971, with respect to the request of Mr. Steve J. Gadler to make a limited appearance in this proceeding.

You seem to be under the erroneous impression that the rules "guarantee" a person making a timely request for a limited appearance the right to make an oral presentation.

§ 2.715 of the Commission's rules of practice (to which you refer in your letter) states:

(a) A person who is not a party may, in the discretion of the presiding officer, be permitted to make a limited appearance by making oral or written statement of his position on the issues within such limits and on such conditions as may be fixed by the presiding officer, but he may not otherwise participate in the proceeding. (Emphasis added)

A number of intervenors -- represented by three sets of counsel -- have been admitted in opposition to the application for the construction permit and it seems unlikely that they will fail to bring to the attention of the Board any matters of significance with respect to safety or to the extent at issue in this proceeding, environmental matters.

In the circumstances, it seems appropriate to adhere to my earlier decision that Mr. Gadler not be permitted to make an oral presentation. He is, however, free to make a written presentation if he

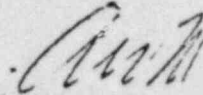
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March 4, 1971

so chooses. Please assure Mr. Gadler that the individual member of the board will read his statement. However, it must be understood that material presented by way of limited appearance, whether written or oral, is not evidence in the proceeding.

Very truly yours,



Arthur W. Murphy
Chairman, Atomic Safety
and Licensing Board

AWM:rm

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

In the Matter of)

CONSUMERS POWER COMPANY)
(Midland Plant, Units 1)
and 2))

Docket Nos. 50-329, 330

CERTIFICATE OF SERVICE

I hereby certify that copies of a letter from Murphy to Castner dated May 4, 1971, regarding limited appearance, request of S. Gadler in the captioned matter have been served on the following by deposit in the United States Mail, first class or air mail, this 6th day of May 1971:

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50-329, 330

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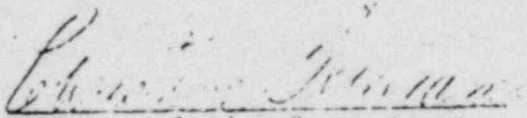
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