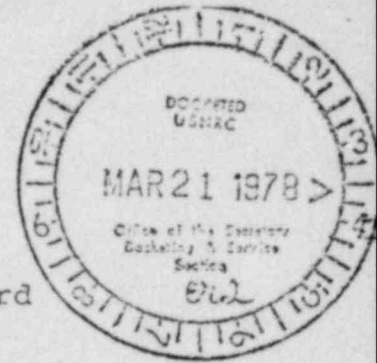


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board
For Special Proceeding



In the Matter of)
) Docket Nos. 50-329
CONSUMERS POWER COMPANY) 50-330
) (Special Proceeding)
Midland Plant, Units 1 and 2)

MOTION AND STIPULATION

In view of the letter of January 30, 1978 from the Chairman of the Nuclear Regulatory Commission to the Chairman of this Special Board, and of this Board's orders of February 1 and February 14, 1978, and in consideration of the mutual promises herein contained, the undersigned parties stipulate and agree that this proceeding should be settled upon the following terms and they hereby move that the Special Board recommend to the Commission the approval of this stipulation and that the Commission so approve:

1. upon approval by the Commission, all motions listed in Appendix A hereto and all pleadings, motions, requests, and applications in this Special Proceeding

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shall be deemed withdrawn with prejudice;

2. that all documents submitted in connection with the proceeding In The Matter of Consumers Power Company (Midland Plant, Units 1 and 2), Docket Nos. 50-329, 50-330 and all parts of the transcript of the hearing thereon which are listed in Appendix A hereto shall be stricken from the record in that proceeding;

3. that all orders and memoranda in connection with the above-mentioned proceeding listed in Appendix B hereto shall be stricken from the record in that proceeding, and that all charges against any party hereto contained in any such order or memorandum and referred to the Special Board, or filed with that Board shall be dismissed with prejudice and may be considered to have no effect as if such charges had not been brought;

4. that the Nuclear Regulatory Commission shall issue notice for publication in its official reports to the effect that all orders and memoranda listed in Appendix B hereto have been stricken and that charges contained therein have been dismissed with prejudice;

5. that all documents submitted by the parties in connection with the proceeding before the Special Board, all orders by that Board, all correspondence by that Board, and all transcripts of any proceeding thereof shall be stricken from the record and that the record of the Special Proceeding shall be stricken in its entirety;

6. that the Special Proceeding shall be terminated;

7. that the Nuclear Regulatory Commission or appropriate members of its staff shall furnish notice containing the language set forth in Appendix C hereto to all persons to whom the Commission or any member of its staff disseminated any letter, press release, document or any other information, describing, concerning or relating to the Special Proceeding or any matters at issue therein, informing all such persons of the disposition of the proceeding;

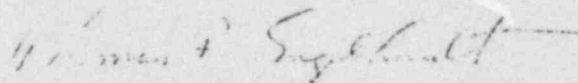
8. that the Nuclear Regulatory Commission or appropriate members of its staff promptly shall provide counsel for Myron M. Cherry with copies of all written communications by the Commission or its staff with third persons, other than parties

to this proceeding or their counsel, describing, concern-
ing or relating to the Special Proceeding or any matters
at issue therein; and

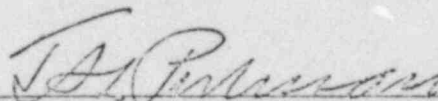
9. that Myron M. Cherry enters into this stipulation
on the further condition that the Nuclear Regulatory Commission
shall pay actual out-of-pocket expenses not in excess of
\$1,000 incurred by or on behalf of Myron M. Cherry in con-
nection with the Special Proceeding.

In the event the Nuclear Regulatory Commission fails
to approve the foregoing motion and stipulation in its entirety,
the stipulation and all terms hereof shall be void and to no
effect.

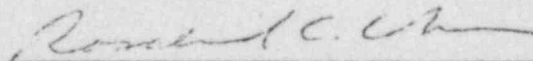
SO STIPULATED:



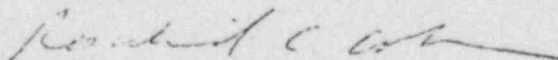
Counsel for the Nuclear Regulatory
Commission Staff



Counsel for Milton J. Grossman and
James R. Tourtellotte



Counsel for Myron M. Cherry



Counsel for Intervenors Other Than
Dow Chemical Co.

Dated: March 13, 1978.



APPENDIX A

1. Letter of 3/7/77 from James R. Tourtellotte to members of the Atomic Safety and Licensing Board (Midland Panel).
2. Letter of 3/10/77 from Myron M. Cherry to members of the Atomic Safety and Licensing Board (Midland Panel).
3. 3/25/77 Motion for Censure of Myron M. Cherry, submitted by Milton J. Grossman.
4. Letter of 4/5/77 from Myron M. Cherry to members of the Atomic Safety and Licensing Board (Midland Panel).
5. Letter of 5/6/77 from Myron M. Cherry to Dr. Lawrence P. Quarles.
6. Transcript of hearing of May 9, 1977 at pages 5220-5224, line 5.
7. 5/13/77 Motion to Strike Certain Pleadings as Sham Pleadings, submitted by Myron M. Cherry.
8. 5/13/77 Further Response in Opposition to Censure Motions and Cost Motions and Statement in Support of Intervenors' Motion to Strike Certain Filings of the Regulatory Staff and Consumers in These Proceedings, submitted by Myron M. Cherry.
9. 5/13/77 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, submitted by Myron M. Cherry.
10. 5/16/77 Motion Pursuant to 10 C.F.R. 2.713 and 10 C.F.R. 2.718 to Take Appropriate Sanctions and Actions Against James Tourtellotte and Milton Grossman, and the Regulatory Staff, submitted by Myron M. Cherry.

11. 5/16/77 Intervenors' Motion for Investigation of Improprieties Occasioned by the Regulatory Staff and in Particular by their Lawyers, James Tourtellotte and Milton Grossman, submitted by Myron M. Cherry.
12. 5/20/77 NRC Staff's Response to Intervenors' Motion to Strike Certain Pleadings, submitted by Milton J. Grossman, James R. Tourtellotte, William J. Olmstead.
13. 6/6/77 NRC Staff's Motion for Directed Certification, submitted by Milton J. Grossman, James R. Tourtellotte, William J. Olmstead.
14. 6/14/77 Intervenors' Response to NRC Motion for Directed Certification, submitted by Myron M. Cherry.

APPENDIX B

1. 4/29/77 Order by Atomic Safety and Licensing Appeal Board (Midland Appeal Panel), Separate Statement of Dr. Quarles (ALAP-395).
2. 6/15/77 Memorandum by Atomic Safety and Licensing Board (Midland Panel).
3. 6/29/77 Memorandum and Order by Atomic Safety and Licensing Appeal Board (Midland Appeal Panel) (ALAB-417).
4. 11/4/77 Order by Atomic Safety and Licensing Board (Midland Panel) (Referring Charges to Special Board).
5. 11/7/77 Order re Establishment of an Atomic Safety and Licensing Board for a Special Proceeding Concerning 10 C.F.R. 2.713 by James R. Yore, Chairman, Atomic Safety and Licensing Board Panel.
6. 12/7/77 Order re Establishment of Atomic Safety and Licensing Board for Special Proceeding by James R. Yore, Chairman, Atomic Safety and Licensing Board Panel.
7. 12/14/77 Memorandum by Atomic Safety and Licensing Appeal Panel (ALAB-450).



APPENDIX C

The Nuclear Regulatory Commission has determined that the Special Proceeding to hear charges of professional misconduct against Myron M. Cherry, an attorney in private practice, and NRC staff attorneys Milton J. Grossman and James R. Tourtellotte should be terminated. All charges against Mr. Cherry, and Mr. Grossman and Mr. Tourtellotte have been withdrawn or dismissed with prejudice.

