

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

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

10-23-71

APPLICANT'S MOTION FOR ORDER REQUIRING
INTERVENORS TO STATE THEIR CONTENTIONS,
AND THE BASES THEREFOR, AND FOR A
PRECLUSION ORDER

1. As is more fully set forth in Section I of Applicant's Memorandum dated October 23, 1971 "In Response to the End-of-September Submissions" of the opposing intervenors, the opposition intervenors (Saginaw, Mapleton, and EDF) have failed to comply with the Board Order of August 26, which required them to file by September 30, 1971 "a preliminary statement of their views on environmental questions".*

* As set forth in the Board's Order of August 26, 1971, intervenors' statements were to cover the following:

- "1. Identify those aspects of the environment, e.g., air quality, water quality, land use, etc. which they presently believe would be adversely affected by the proposed plant and specify in detail the nature of each adverse effect as they presently perceive it.
 2. The alternatives to the proposed plant which should be considered by the Board and the reasons, in detail, why they consider any of those alternatives to be preferable to the proposed plant.
 3. Identify the facts which should be considered by the Board in its "risk-benefit" analysis with particular attention to the importance to be attached by the Board to the effect of the decision."
- [page 4]

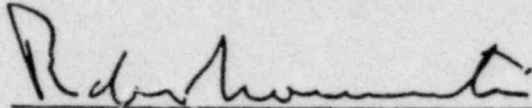
2. For reasons more fully set forth in Section I of Applicant's Memorandum of October 23, 1971, the various intervenors should each be required to set forth, by November 10, 1971, their contentions, if they have any, as to any adverse environmental effects from the proposed plant, together with the bases for such contentions. The order should preclude the assertion of any contentions regarding alleged adverse environmental effects with respect to any matter not so set forth, without prejudice to a future determination as to whether there is any violation of procedural requirements of NEPA or of Appendix D (10 CFR Part 50) as to which intervenors may complain.

3. Intervenors have had ample opportunity to familiarize themselves with the plant and with environmental effects from the plant as a result of their participation in this case for almost one year, the filing of Applicant's environmental report, the filing of Applicant's comments on agency comments, the filing by Applicant of a supplement environmental report, the materials previously furnished to intervenors in pre-hearing proceedings, and the evidence adduced at the hearing. Clearly there has been no showing of cause by the intervenors as to why they are unable to do so.

4. Wherefore, Applicant requests the issuance of an order as described in paragraph 2, above.

Dated: October 23, 1971

Respectfully submitted,



LOWENSTEIN AND NEWMAN
1100 Connecticut Avenue, N.W.
Washington, D.C. 20036

Attorneys for Applicant
Consumers Power Company

Of Counsel,

Harold P. Graves
Robert Lowenstein
John K. Restruck
Jerome E. Sharfman
Richard G. Smith