

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

In the Matter of)

CONSUMER POWER COMPANY)

(Midland Plant, Units 1 and 2))

11-29-71

Docket Nos. 50-329
50-330

SUPPLEMENTARY NOTICE OF HEARING ON
APPLICATION FOR CONSTRUCTION PERMITS

On October 29, 1970, a Notice of Hearing on Application for Construction Permits was published by the Atomic Energy Commission (the Commission) in the FEDERAL REGISTER (35 F.R. 16749) in the captioned proceeding. That Notice designated an Atomic Safety and Licensing Board (Board) to conduct the hearing, specified the issues to be determined by the Board, provided an opportunity to intervene with respect to the issues specified in such Notice to persons whose interests may be affected by the proceeding and provided an opportunity to make limited appearances to other persons who wished to make a statement in the proceeding but who did not wish to intervene.

On September 9, 1971, the Commission published a revision of its regulations in 10 CFR Part 50, Appendix D, "Implementation of the National Environmental Policy Act of 1969," (36 F.R. 18071) to set forth an interim statement of Commission policy and procedure for implementation of the National Environmental Policy Act of 1969 (NEPA).^{1/} The revised

^{1/} The Commission adopted certain minor amendments to revised Appendix D which were published in the FEDERAL REGISTER on September 30, 1971 (36 F.R. 19158). The Commission adopted certain additional amendments to revised Appendix D with respect to proceedings subject to Section D thereof which were published in the FEDERAL REGISTER on November 11, 1971 (36 F. R. 21579).

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regulations require the consideration of additional matters in applicants' Environmental Reports and in Detailed Statements of environmental considerations and provide for determination by the presiding Atomic Safety and Licensing Boards in pending proceedings of specified issues in addition to and different from those previously in issue in AEC licensing proceedings.

Notice is hereby given, pursuant to 10 CFR Part 2, "Rules of Practice," and Appendix D of 10 CFR Part 50, "Licensing of Production and Utilization Facilities," that in the conduct of the captioned proceeding, the Atomic Safety and Licensing Board will, in addition to considering and determining the issues pertaining to radiological health and safety and the common defense and security specified for hearing in the Notice of Hearing in this proceeding published on October 29, 1970, consider and make determinations, pursuant to the National Environmental Policy Act of 1969, on the matters set forth below.

1. In the event that this proceeding is not a contested proceeding as defined by 10 CFR § 2.4(n) of the Commission's "Rules of Practice," the Board will determine whether the environmental review conducted by the Commission's regulatory staff pursuant to Appendix D of 10 CFR Part 50 has been adequate.
2. In the event that this proceeding is or becomes a contested proceeding, the Board will decide any matters in controversy

among the parties with respect to matters within the scope of Appendix D of 10 CFR Part 50, and will consider and decide whether, in accordance with the requirements of Appendix D of 10 CFR Part 50, the construction permits should be issued as proposed.

3. Regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, (a) determine whether the requirements of section 102(2)(C) and (D) of NEPA and Appendix D of 10 CFR Part 50 of the Commission's regulations have been complied with in this proceeding; (b) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view toward determining the appropriate action to be taken; (3) determine whether the construction permits should be granted, denied or appropriately conditioned to protect environmental values.

This notice supersedes the Notice of Hearing published on October 29, 1970, with respect to the matters which may be raised under paragraph A. 11 of Appendix D of 10 CFR Part 50, but does not affect the status of any person previously admitted as a party to this proceeding or provide an additional opportunity to any person to intervene on the basis of, or to raise matters encompassed within, the issues pertaining to radiological health and safety and the common defense and security specified

for hearing in the prior above-referenced Notice of Hearing.

As they become available, any new or supplemental Environmental Report, and any new or supplemental Detailed Statement required by Appendix D of 10 CFR Part 50 will be placed in the Commission's Public Document Room at 1717 H Street, N. W., Washington, D. C. where they will be available for inspection by members of the public. Copies of those documents will also be made available at the Grace Dow Memorial Library, 1710 West St. Andrews Road, Midland, Michigan, for inspection by members of the public between the hours of 9:00 a.m. and 9:00 p.m. weekdays, and 9:00 a.m. and 5:00 p.m. Saturdays. A copy of any new or Supplemental Detailed Statement prepared and, to the extent of supply, a copy of any new or Supplemental Environmental Report filed, may be obtained, when available, by request to the Director of the Division of Reactor Licensing, United States Atomic Energy Commission, Washington, D. C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified in this Notice, but who does not wish to file a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of 10 CFR § 2.715 of the Commission's "Rules of Practice." Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions

as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, United States Atomic Energy Commission, Washington, D. C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

Any person whose interest may be affected by the proceeding who does not wish to make a limited appearance and who wishes to participate as a party in the proceeding with respect to the issues set forth in this notice must file a petition for leave to intervene.

Petitions for leave to intervene, pursuant to the provisions of 10 CFR § 2.714 of the Commission's "Rules of Practice," must be received in the Office of the Secretary of the Commission, United States Atomic Energy Commission, Washington, D. C. 20545, Attention: Chief, Public Proceedings Branch, or the Commission's Public Document Room, 1717 H Street, N. W., Washington, D. C., not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. The petition shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by Commission action, and the contentions of the petitioner in reasonably specific detail. A petition which sets forth contentions relating to matters outside of the issues specified in this notice will be denied. A petition for leave to intervene which is not timely will be denied unless, in accordance with

10 CFR § 2.714, the petitioner shows good cause for failure to file it on time.

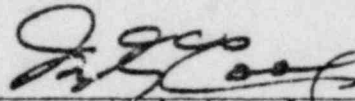
A person permitted to intervene becomes a party to the proceeding, and has all the rights of the applicant and the regulatory staff to participate fully in the conduct of the hearing. For example, he may examine and cross-examine witnesses. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, or an amended answer with respect to the issues specified in this Notice, must be filed by the applicant, pursuant to the provisions of 10 CFR § 2.705 of the Commission's "Rules of Practice," not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER. Parties already participating in this proceeding as intervenors with respect to the issues specified in the Notice of Hearing dated October 29, 1970, must also file an answer with respect to the issues specified in this notice not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER, in accordance with the requirements of 10 CFR § 2.705 of the Commission's "Rules of Practice."

Answers and petitions required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, United States Atomic Energy Commission, Washington, D. C. 20545, Attention: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street, N. W., Washington, D. C.

The date and place of further hearings will be set by subsequent order of the Board and notice thereof will be provided to the parties, including persons granted leave to intervene on issues set forth in this notice, and will be published in the FEDERAL REGISTER. In setting these dates, due regard will be had for the convenience and necessity of the parties or their representatives, as well as Board members.

FOR THE ATOMIC ENERGY COMMISSION



W. B. McCool

Secretary of the Commission

Dated at Germantown, Maryland
this 29th day of November 1971.