

Reg Files

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



In the Matter of

CONSUMERS POWER COMPANY

(Midland Plant, Units 1 and 2)

Docket Nos. 50-329
50-330

ORDER

11/4/77

The Board is of the view that there is some need for definition of the four issues remanded for hearing by the Court of Appeals. We will address each of these briefly in this Order.

1. Fuel Cycle

The adoption by the Commission of the interim rule on the Environmental Effects of the Nuclear Fuel Cycle (42 F.R. 13803) limits the amount of evidence that is necessary for the parties to present on this issue.

2. Dow's Circumstances

Presumably the record now contains most, if not all, of the evidence relative to Dow's situation. We are aware of no need to receive evidence on this topic except for matters that have occurred since the previous hearing, evidence on Dow's corporate position as of the hearing time, and evidence on the effect on the costs of the project if

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Dow withdraws.

3. Conservation of Energy

Evidence has been received with respect to this topic. We would expect that little remains to be presented on the part of the Staff or Licensee except to update the evidence now in the record. Dow has not presented evidence on this subject and the other Intervenorors have indicated that they will have additional evidence.

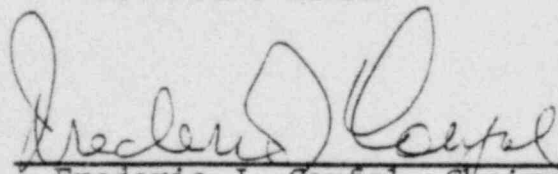
4. ACRS Letter

The ACRS has supplied what it feels is sufficient to satisfy its obligation under the Atomic Energy Act and the Aeschliman case. Thus the Board has before it the legal question of whether or not the ACRS submission is sufficient. The Licensee has indicated that there is a difference of opinion between it and some of the Intervenorors as to the scope of the issue; that the Licensee feels there is nothing to decide except what we have just indicated; and that some of the Intervenorors have indicated the need for evidence on the generic items mentioned in the ACRS letter.

IT IS ORDERED:

- (1) that the parties provide the Board prior to November 15, 1977, a statement of their perception of the scope of the issues in light of the foregoing and a brief outline of what they expect their evidence to be; they will also provide brief statements by way of argument and authority for their perception of the scope of the ACRS issue;
- (2) that motions for summary disposition, if any, may be filed at any time the moving party is prepared; and
- (3) that the hearing on the remanded proceeding begin in Chicago, at a place to be announced, on December 12, 1977, unless good cause for some other date is shown.

THE ATOMIC SAFETY AND
LICENSING BOARD


Frederic J. Coufal, Chairman

Dated at Bethesda, Maryland,
this 4th day of November, 1977.