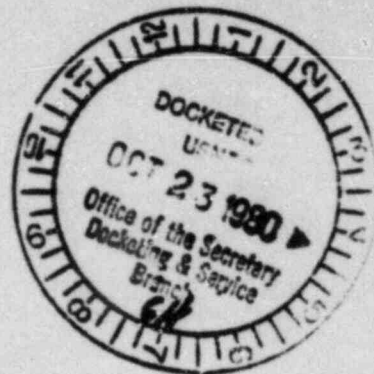




UNITED STATES
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD PANEL
WASHINGTON, D.C. 20555

October 23, 1980



Mr. John O'Neill, II
Route 2, Box 44
Maple City, MI 49664

RE: Consumers Power Company (Big Rock Point Nuclear Plant, Unit 1)
Docket No. 50-135

Dear Mr. O'Neill:

You have apparently misread new regulation 10 C.F.R. § 2.712(f), a copy of which is attached, as permitting the free copying and service of interrogatories by the Docketing and Service Branch. As you will note from the attached copy of regulation, the only discovery covered consists of responses to discovery requests. With regard to requests for discovery, such as interrogatories, and other submissions which are not covered by the new rule, you are still bound by our Order of April 15, 1980 granting you relief from the 20-copy requirement of 10 C.F.R. § 7.708(d) only to the extent of permitting you to serve single copies of all submissions on each party and the Board, and two copies on the Secretary of the Commission.

Nevertheless, in view of the newness of § 2.712(f) and your apparent misinterpretation of it, we have requested the Docketing and Service Branch to copy and service your interrogatories dated October 13, 1980, which you submitted under cover letter to Staff Attorney Janice Moore.

Sincerely,

Herbert Grossman, Chairman
Atomic Safety and Licensing Board

Attachment: a/s

cc: parties
Docketing and Service Branch

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PART 2 • RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

An interpretation of this section is contained in 10 CFR Part 8, § 8.3.

§ 2.711. Extension and reduction of time limits.

(a) Except as otherwise provided by law, whenever an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may for good cause be extended or shortened by the Commission or the presiding officer, or by stipulation approved by the Commission or the presiding officer.

(b) In any instance in which this part does not prescribe a time limit for an action to be taken in the proceeding, the Commission or the presiding officer may set a time limit for that action.

§ 2.712. Service of papers, methods, proof.

(a) *Service of papers by the Commission.* Except for subpoenas, *** the Commission will serve all orders, decisions, notices, and other papers issued by it upon all parties.

(b) *Who may be served.* Any paper required to be served upon a party shall be served upon him or upon the representative designated by him or by law to receive service of papers. When a party has appeared by attorney, service must be made upon the attorney of record.

(c) *How service may be made.* Service may be made by personal delivery, by first class, certified or registered mail including air mail, by telegraph, or as otherwise authorized by law. Where there are numerous parties to a proceeding, the Commission may make special provision regarding the service of papers.

(d) *When service complete.* Service upon a party is complete:

(1) By personal delivery, on handing the paper to the individual, or leaving it at his office with his clerk or other person in charge or, if there is no one in charge, leaving it in a conspicuous place therein or, if the office is closed or the person to be served has no office, leaving it at his usual place of residence with some person of suitable age and discretion then residing there;

(2) By telegraph, when deposited with a telegraph company, properly addressed and with charges prepaid;

States mail, properly stamped and addressed; or

(4) When service cannot be effected in a manner provided by subparagraphs (1) to (3) inclusive of this paragraph, in any other manner authorized by law.

(e) *Proof of service.* Proof of service, stating the name and address of the person on whom served and the manner and date of service, shall be shown for each document filed, and may be made by:

(1) Written acknowledgment of the party served or his counsel;

(2) The certificate of counsel if he has made the service; or

(3) The affidavit of the person making the service.

(f) *Free copying and service.* Except in an antitrust proceeding, in any adjudicatory proceeding on an application for a license or an amendment thereto, the Commission, upon request by a party other than the applicant, will copy and serve without cost to that party that party's testimony (including attachments), proposed findings of fact and conclusions of law, and responses to discovery requests. These documents should be filed with Docketing and Service not less than five days before they are due to be submitted to an adjudicatory board, unless the presiding officer provides otherwise.

§ 2.713. Appearance and practice before the Commission in Adjudicatory Proceedings.

(a) *Representation.* A person may appear in an adjudication on his own behalf or by an attorney-at-law in good standing admitted to practice before any court of the United States, the District of Columbia, or the highest court of any State, territory, or possession of the United States. An attorney appearing in a representative capacity shall file with the Commission a written notice of appearance which shall state his name, address, and telephone number; the basis of his eligibility; and the name and address of the person on whose behalf he appears.

(b) *Standards of conduct.* An attorney shall conform to the standards of conduct required in the courts of the United States.

(c) *Suspension of attorneys.* A presiding officer may, by order, suspend or bar any person from participation as an attorney in a proceeding if the presiding

officer finds that such person:

(1) Is not an attorney at law in good standing admitted to practice before any court of the United States, the District of Columbia, or the highest court of any State, territory, or possession of the United States.

(2) Has failed to conform to the standards of conduct required in the courts of the United States.

(3) Is lacking in character or professional integrity;

(4) Engages in dilatory tactics or disorderly or contemptuous conduct; or

(5) Displays toward the Commission or any of its presiding officers conduct which, if displayed toward any court of the United States, would be cause for censure, suspension, or disbarment.

Any such order shall state the grounds on which it is based. Before any person is suspended or barred from participation as an attorney in a proceeding, charges shall be preferred by the presiding officer against such person and he shall be afforded an opportunity to be heard thereon before another presiding officer

§ 2.714. Intervention.

(a)(1) Any person whose interest may be affected by a proceeding and who desires to participate as a party shall file a written petition for leave to intervene. In a proceeding noticed pursuant to § 2.106, any person whose interest may be affected may also request a hearing. The petition and/or request shall be filed not later than the time specified in the notice of hearing, or as provided by the Commission, the presiding officer or the atomic safety and licensing board designated to rule on the petition and/or request, or as provided in § 2.102(d)(3). Nontimely filings will not be entertained absent a determination by the Commission, the presiding officer or the atomic safety and licensing board designated to rule on the petition and/or request, that the petition and/or request should be granted based upon a balancing of the following factors in addition to those set out in paragraph (d) of this section:

(i) Good cause, if any, for failure to file on time.

(ii) The availability of other means whereby the petitioner's interest will be protected.

(iii) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.

(iv) The extent to which the petitioner's interest will be represented by existing parties.

(v) The extent to which the petitioner's participation will broaden the issues or delay the proceeding.