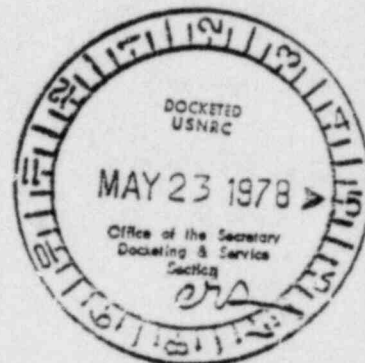


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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

(Docket Nos. 50-329SP, 50-330SP)

THE CONSUMERS POWER COMPANY
(Midland Plant, Units 1 and 2)
SPECIAL PROCEEDING



ORDER
5-23-78

The following numbered paragraphs of this order confirm, change and supplement the directions and guidelines given by the special board at the conference of attorneys for the parties to the special proceedings on May 17, 1978. The terms of the proposals for settlement referenced in paragraphs 1 and 2 are not described inasmuch as they were discussed at the conference on an off-the-record basis in keeping with the wishes of the attorneys for the parties.

1. The attorneys will endeavor to reach an agreement among themselves for settling the special proceeding on the basis of certain action by the Commission and reaction by a third party, and if such an agreement is reached, they will deliver the agreement to the special board on or before May 31, 1978. If, after receipt of any such agreement or any other involving the element of approval by the Commission, the special board finds the agreement to be deserving of the Commission's consideration, the special board will transmit the agreement to the Commission for its approval or disapproval. The special

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board will keep the attorneys timely informed of its related communications with the Commission, as it has done in the past. However, the special board will not find an agreement worthy of the Commission's consideration if, in the judgment of the special board, the agreement offers no reasonable hope for the Commission's approval in light of, for example, the Commission's letter of April 28, 1978 to the special board. For sake of identification, the particular proposed agreement referenced in this paragraph was presented at the conference by Mr. Bonderman.

2. The attorneys will explore the possibility of settling the special proceeding on the basis of one or another of two other proposed agreements wherein the requirement of Commission approval was not indicated. For sake of identification of these proposed agreements, they were presented at the conference by Mr. Perlman.

3. Unless prior to early June there is a significant positive development with respect to effecting a settlement of the special proceeding, the special board intends to report then to the Commission as called for by the Commission's letter of January 30, 1978 "after the possibility of settlement has been explored."

4. During the recent period of exploring the possibility of settlement of the special proceeding, the special board suspended all filing dates. It now appears appropriate to re-schedule such dates. Accordingly, all answers not yet made to

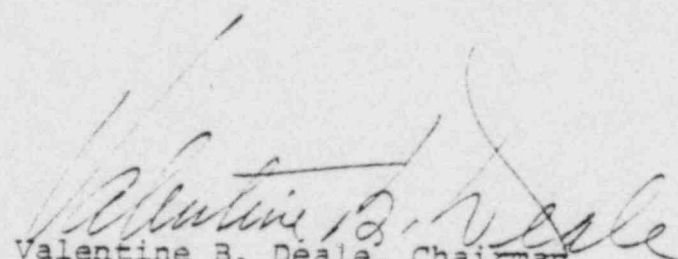
pending motions are due on or before twenty-one (21) days following receipt by each party's counsel of the special board's report to the Commission referenced in the above paragraph 3, rather than at any other time discussed at the May 17 conference. As ruled at that conference, no replies to answers are allowed.

5. Also, counsel for the Saginaw intervenors should supplement the notice of appearance heretofore made in the special proceeding in behalf of the Saginaw intervenors, dated January 27, 1978, in the following manner: the chief executive officer or his deputy of each organization and each individual, if any, among the Saginaw intervenors in this special proceeding will file or cause to be filed on or before fourteen (14) days following the receipt of a copy of this order by counsel already appearing in this proceeding for the Saginaw intervenors a letter addressed to the special board confirming the particular Saginaw intervenor's authorization that the named counsel represents its or his or her interests in the special proceeding. This requirement parallels a comparable requirement to which the NRC Staff has already complied.

6. Unless the Commission should indicate otherwise, the special board is not planning to rule upon the pending dispositive motions and it is not planning to rule upon the single other pending motion, which is not dispositive. The special board is now seeking to arrange for the pending motions to be in a state of readiness for decision thereon following its report to the Commission referenced in paragraph 3.

7. To facilitate exploration of settlement possibilities, the chairman of the special board is amenable to discussing off the record with any one or more attorneys appearing in the special proceeding considerations bearing upon settling this special proceeding, provided the chairman is first notified that counsel for each of the parties in the special proceeding waive objections to such procedure.

Dated this 23rd day of May 1978 at Washington, D.C.


Valentine B. Deale, Chairman
Atomic Safety and Licensing
Board for Special Planning

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)

CONSUMERS POWER COMPANY)

(Midland Plant, Unit Nos. 1 and 2))
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)
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Docket No.(s) 50-329SP
50-330SP

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document(s) upon each person designated on the official service list compiled by the Office of the Secretary of the Commission in this proceeding in accordance with the requirements of Section 2.712 of 10 CFR Part 2 - Rules of Practice, of the Nuclear Regulatory Commission's Rules and Regulations.

Dated at Washington, D.C. this

24th day of May 1978.

Peggy T. Downing
Office of the Secretary of the Commission

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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(Midland Plant, Units 1 and 2))	
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