

2078
RELATED CASE NO. 50-329
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



Before the Atomic Safety and Licensing Board

In the Matter of
CONSUMERS POWER COMPANY
(Midland Plant, Units 1 and 2)

Docket Nos. 50-329
50-330

SUPPLEMENTAL RESPONSE OF CONSUMERS POWER COMPANY AND
THE DOW CHEMICAL COMPANY TO INTERROGATORIES OF INTERVENORS
OTHER THAN DOW

Consumers Power Company ("Licensee") and The Dow Chemical Company ("Dow") submit the following supplemental answer to that portion of Intervenor's Other than Dow ("Intervenors") Interrogatory No. 1 related to the status of negotiations between Licensee and Dow. Intervenor's Interrogatory was directed to both Licensee and Dow.

QUESTION

1. Testimony in this proceeding thus far has indicated a dispute between Consumers and Dow Chemical Company (Dow) relating to the construction of the Midland Nuclear Facility and sale and purchase of steam and electricity from said facility. All or a portion of the Dow-Consumers contracts have been identified or attached in written testimony of Consumers' witnesses in this proceeding, Messrs. Keeley and Howell.

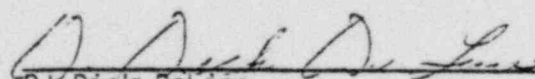
With respect to any dispute concerning such contracts between Consumers and Dow please state the following:

(a) Describe in detail the nature of the dispute and the status of any negotiations to resolve said dispute. If it is your position that no dispute exists, please state the basis therefor in light of the cross-examination testimony of Dow witness Temple, including but not limited to the disclosures made by Mr. Temple of meetings between Consumers and Dow and their representatives in September, 1976 wherein suggestions of lawsuits were made, as well as correspondence between Youngdahl and Temple during 1975 and 1976 which has already been produced by Consumers.

ANSWER

In accordance with the schedule provided with the earlier Supplemental Interrogatory Response dated February 22, 1978, Licensee and Dow met at Consumers Power's offices in Jackson, Michigan, on March 7, 8, 9, and 10, 1978. Attached to this Supplemental Interrogatory Response as Exhibit "A" is a summary report of those meetings.


Stephen H. Howell, Vice President
Projects, Engineering and Construction
Consumers Power Company


D. Dick DeLine
Manufacturing Manager
Michigan Division
Dow Chemical U.S.A.

Stephen H. Howell, being duly sworn, deposes and says that the foregoing Supplemental Response of Consumers Power Company and The Dow

AGENDA

CONSUMERS POWER-DOW MEETING

March 7 & 8, 1978

1. Housekeeping Items
2. Dow Response and Negotiations on:
 - a. Water Contract
 - b. Steam Capacity Charge Deferral
3. Negotiations on:
 - a. Recoverable Costs
 - b. Termination/Final Date
 - c. Unit No 2 Steam Costs
 - d. MPSC
 - e. Return on Equity

SHH/sjb
March 7, 1978

RELATED DOCUMENTS

CONSUMERS POWER-DOW REOPENED NEGOTIATIONS

Dates of Meeting: March 7, 8, 9, and 10, 1978

Subject: Minutes of Nuclear Contracts Negotiation Meeting
at Jackson, Michigan

Present: The Dow Chemical Company: DDDeLine, LWPribila, JRBurroughs
Consumers Power Company: SHHowell, LBLindemer, GS Keeley

Present as Drafting Committee and for occasional consultation:

The Dow Chemical Company: PDConner
Consumers Power Company: JLBacon, WAKirkby

Present as Technical Committee and for occasional consultation on March 7, 8, 9, and 10, 1978:

The Dow Chemical Company: EWall, RHoffman, MClayton,
PKline, JLSchick

Consumers Power Company: KRKline, PCWebb

The attached Agenda was agreed upon.

Agenda Items

1. Housekeeping Items

Other than reports to each other about recent activities on the environmental front, there were no housekeeping items.

2. Dow Response and Negotiations on:

a. Water Provisions

The parties discussed Consumers' draft of 3-2-78, and Dow suggested that the portion relative to condensate return water should be separated from that portion relative to Water Resources Management. After extensive discussion, the parties reached general agreement on the provision and Consumers Power prepared a draft covering condensate return while Dow prepared a draft on Water Resources Management.

b. Steam Capacity Charge Deferral

The proposal in this area of the contract in its present form was not acceptable to Dow, and the parties spent a considerable



period of time discussing the philosophy of the concept and working on various cost factors. The parties agreed that under some conditions when Dow was not receiving steam, portions of the capacity charge could be eliminated.

c. Fuel Cost Computations

The parties discussed various aspects of the fuel cost computations. The negotiating teams reported that their technical people had different concepts on the elements and it was determined to bring the technical people for both parties together immediately to work on the matters until a basic understanding was reached on all elements involved and factual questions were eliminated. That session was successfully concluded.

3. Negotiations on:

a. Recoverable Costs

The parties discussed recoverable costs and agreed upon a series of examples on the basis of which computations could be made and philosophical approaches determined. Different factual situations were examined and progress was made toward mutual understanding and agreement. Dow provided a draft incorporating the parties' understandings.

b. Termination/Final Date

The parties also reached tentative agreement on the portions of the contract relating to term, termination and extension past thirty-five (35) years.

c. Unit No 2 Steam Costs

The parties discussed the cost of steam from Unit 2. After extensive negotiations with assistance from the technical committees, the parties reached tentative agreement on methods of calculation and other factors involved.

d. MPSC

The parties agreed the contract would not refer to the effect of MPSC assumption of or avoidance of jurisdiction, leaving to each the consequences flowing therefrom.

e. Rate of Return on Equity

The parties agreed that Dow's rates for steam would be designed to permit Consumers to realize the same rate of return on common equity as the MPSC authorized in electric rates.

4. Next Meeting

The parties agreed to assign unresolved details to drafting and technical committees and to meet next on March 16, 1978 at Midland.

RELATED CORRESPONDENCE

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



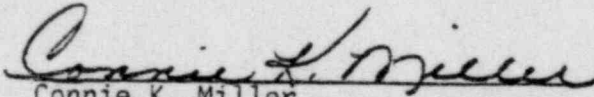
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CERTIFICATE OF SERVICE

I hereby certify that copies of the attached "Supplemental Response of Consumers Power Company and The Dow Chemical Company to Interrogatories of Intervenors Other than Dow" dated March 16, 1978, were served upon the individuals whose names appear on the attached Service List by deposit in the United States mail, postage prepaid and properly addressed, on the 16th day of March, 1978.


Connie K. Miller
P.O. Box 271
The Dow Chemical Company
Legal Department
Midland, MI 48640

Dated: March 16, 1978

Attachment: Service List

SERVICE LIST

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Atomic Safety and Licensing Appeal
Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Docketing and Service Section
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U.S. Nuclear Regulatory Commission
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