U. S. Nuclear Regulatory Commission

In the Matter of
CPCo. Midland Plant
Units 1 & 2

Docket Nos.
50-329 OL
50-330 OL

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

NEW STAMIRIS CONTENTION BASED ON FES

8/24/82

(All page references in parenthesis refer to FES pages.)

CONTENTION

I contend that the new cost production, cost savings analysis of the FES, represented by revised table 2.1 (p. A-32) and the revised cost/benefit analysis (p. 6-4) and revised economic statements derived therefrom do not accurately and fully represent the cost/benefit balance of the Midland plant to the public, and should therefore not be accepted as presented.

BASIS I: UNREPRESENTATIVE AND INCONSISTANT METHODOLOGY IN PRODUCTION COST ESTIMATES

The bases for contending that these new FES statements are inaccurate and incomplete are numerous. First, the NRC chooses to use the most favorable (ie. least costly) 1984 production cost data rather than the most representative but less favorable average of 1984-1988 production cost data in their table 6.1 (p. 6-4). At the same time the NRC uses the 1984-1988 average rather than 1984 data alone to represent the cost savings data. Rather than use a consistent method-

ology to represent cost/benefit data, the NRC has chosen to use whichever approach offers the most favorable presentation to plant operation.

By way of explanation, the NRC's use of 15 mill/kwh (fuel) and 6 mill/kwh (O&M) production costs (p. 6-4) is based on a 1984, 56% capacity figure (p. 6-3 par. 1) for a total cost of 21 mills/kwh to produce electricity. In so doing the NRC goes beyond even accepting the new table 2.1 data at face value by enhancing its presentation in table 6.1. The NRC should use a 13.8 mill/kwh (fuel) and 12 mill/kwh (O&M) averaging of 1984-1988 data for a total of 25.8 mills/kwh to produce electricity, based on an average capacity factor of 54%. Even the applicant suggests using the 54% capacity average (p. A-30 #15) to replace the staffs DES 58% average capacity factor (p. 2-2 DES), but the staff abandons their averaging approach to use the 1984 data alone.

BASIS II: LACK OF SUPPORTING DATA FOR PRODUCTION COST ESTIMATES

If the staff were to accept Consumer's new production cost data and comments at face value, this would still not meet the public interest regarding a complete and accurate representation of the costs and benefits of operating the Midland plant, for the supporting bases used to justify Consumer's submission of new data in revised table 2.1 are not provided or analyzed.

Consumer's cites the change in Dow's steam reservation and their 12-14-81 load forecast revision as bases for their new replacement energy estimates (p. A-31, #16) which account for the increased savings from $200 million/year (DES) to $279 million/year (FES) in table 6.1, yet no documentation or explanations of these bases are included in the FES in order to assess the validity or necessity of the proposed changes prior to their acceptance.

BASIS III: "SAVINGS" AS AN ACTUAL BENEFIT IS INVALID

The revised FES average cost savings of $279 million per year (based upon note (e) in revised table 2.1, p. A-32) is represented in FES table 6.1 (p. 6-4)

as an actual benefit in "reduced generating costs" and is judged to be a "large" benefit in the overall cost benefit analysis.

As stated in paragraph 2 p. 6-2 FES, "the benefits and costs of operating the plant are summarized in table 6.1" (emphasis added). Yet the dollar figure of $279 million per year actually represents the projected costs of not operating the Midland plant. As such these replacement energy costs have no place in an analysis which purports to represent the costs and benefits of operating the Midland plant.

The hypothetical energy savings are counted as actual dollar benefits "that will accrue from operation of the plant," (par. 4, p. 6-2) which they are not. Such an accounting is analagous to crediting your personal checkbook with "savings" from the money you didn't spend, as though it were a deposit. Consumer's Power Co. cannot be allowed to take economic credit for not operating the plant, in a cost benefit analysis considering plant operation.

BASIS IV: COST SAVINGS INCREASE IS NOT JUSTIFIED

Even if the existance of a cost-savings figure, represented in Table 6.1 as reduced generating costs, is allowed to remain in the FES cost-benefit analysis, the significant increase from the estimated $200 million savings per year in the DES, to the $279 million savings per year in the FES is not justified.

The basis for this significant increase between the DES and FES cost savings estimates is due to the corresponding increase in replacement energy costs (in tables (d) below table 2.1 p. 2-3 DES, p. A-32 FES) as submitted by CPC. As noted in my basis II argument about production costs, these increased replacement energy costs are unsupported by documents or explanations.

In addition the question must be asked regarding the increased cost savings: why would CPC maintain an average 70% reliance on purchased power, (as opposed to the more economical coal power, tables (d) below tables 2.1) if the projected cost

of purchased power rose from an average of 50 mill/kwh (DES) to 71 mill/kwh (FES) as it does to produce the increase in cost savings between the DES and FES? An opportunity is needed for both parties to produce evidence on this issue, for there is data available showing that the use of the coal option for replacement energy has not been cost-efficiently taken into account. (By this suggestion I do not raise need for power or alternate energy arguments, only costs of replacement power as CPC does.)

BASIS V: COST CONSIDERATIONS ALLOWED ONE PARTY CANNOT BE DENIED ANOTHER PARTY

In the economic revisions implemented between the DES and the FES as reflected in section 6, CPC is allowed to take account of "recently revised plant and production cost data based on the latest cost forecasts" (p. A-28, #3) for its revised estimates of increased benefits, while avoiding any accounting of analagous increased costs in the cost/benefit analysis table 6.1.

The data and substance of these new cost forecasts used as bases for the revised benefits is not produced, explained, or analyzed--but is accepted by the NRC in adopting the FES changes to table 6.1.

It is obvious that CPC and the NRC have been allowed to make extensive use of all beneficial cost data in their revised cost benefit analysis of the FES (even non-existant annual cost-savings). The selective application of cost considerations in an analysis performed for the public which excludes the most significant of all the real costs that the public will accrue with the operation of the plant--ie. construction costs, is blatently unfair and does not represent the public interest.

For according to Michigan Public Service Commission policy, the construction costs of the Midland plant will become a part of the operating ratebase--only when the plant produces the power for which it was intended (see attachment A).

The NRC states that their section 6 analysis represents "the benefits and costs of operating the plant." Unless we are to believe that this analysis represents

the costs and benefits to the utility as opposed to the public, the construction costs cannot be considered "sunk costs" by any stretch of the imagination in Michigan.

Likewise the exclusion of construction-cost economic considerations on the bases of the argument that construction costs have already been considered at the c.p. stage, while promulgating new economic benefit considerations from new cost forecasts (p. A-28, #3), is inconsistant.

Furthermore the recent Commission observation that "factors such as increased financial costs since the c.p. review should generally not be considered at the O.L. stage, since such factors would be unlikely to tip the cost benefit balance against issuing an O.L. (emphasis added, 47 Fed. Reg. 12940-42 3-26-82) clearly leaves room, in its use of qualifiers, for the exceptional cost increase circumstances which Midland represents.

For construction cost estimates considered at the c.p. stage for Midland were only $265 million, as compared to the not yet final cost estimate of $3.39 billion today, an increase of over 1000 percent which cannot be ignored as an outstanding cost increase to the public who will begin to pay it only when the plant operates.

If the applicant presents the same explanations of "the manner in which construction costs were in fact accounted for in the environmental cost-benefit analysis at the OL stage of review" (tr: 8386-88, 8392, as cited in the Boards 8-14-82 order, p. 26) to this contention as he did at the recent prehearing conference, I will strongly object to the acceptance and these or any other arguments which go to the merits of the contention, without an equal opportunity to explore those merits myself, for I consider them erroneous, and misleading and I could produce evidence to support my contrary point of view.

BASIS VI: NEPA REQUIREMENTS

Mr. Bishop raised arguments at the prehearing conference of Aug. 13, 1982 concerning the necessity of considering the whole cost/benefit picture according to NEPA requirements,* something that wasn't done at the c.p. stage, and something that is not done in the selective use of new cost forecasts taking place with the FES economic benefit revisions already discussed. These NEPA arguments must be taken into account in support of the portion of my contention which asserts that the revised FES cost/benefit analysis is incomplete, and therefore unacceptable in its present form.

CONCLUSION

Throughout the statement of this contention and its supporting bases, I have dilligently avoided raising any need for power or alternate energy arguments. I seek only the full and fair consideration of economic costs and benefits associated with the operation of the Midland nuclear plant assuming that its power is needed and that there are no environmentally superior alternatives.

I seek only to be allowed the same rights as other parties in the consideration of relevant costs and benefits to the public which will accrue from the operation of the Midland plant, and in considering them in a consistant and equitable manner.

On the basis of the foregoing considerations regarding the decreased validity of the FES, cost/benefit analysis and section 6 conclusions, as compared to the DES analysis and conclusions, and the overall inaccuracy and incompleteness of these economic considerations, I hereby seek to have this new contention admitted in the OL proceeding.

At the very least, this contention should be admitted for the purposes of discovery to clear up the apparant inconsistancies in data usage addressed in the

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*My lack of a transcript does not allow me to be more specific at this time.

contention. If appropriate the contention could then be restated, resubmitted or dropped after the close of discovery on the basis of information obtained therein.

Respectfully Submitted,

Barbara Stamiris

STATEMENT OF GOOD CAUSE FOR

FILING OF NEW CONTENTION ON 8/24/82

On August 10, 1982, I received the FES. This submission of this new contention thus falls within 14 days of the date I received the newly issued staff document on which it is based.

According to the Boards May 7, 1982 order (p. 4) I have met the part 7 time requirements (even according to the February 23, 1979 order) for the filing of new contentions based on new information in recent staff documents, to which the Board indicated they would be prepared to entertain proposed modifications.

I have made a concerted effort to meet the 14 day requirement despite the prehearing conference and my ongoing discovery obligations, so that in case my contention is construed to be an extension of my existing contention 1, I will still have met the Boards time requirements of part 6 of the May 7, 1982 order.

My contention is clearly based upon new FES information and analysis to which I did not previously have access (2.714a).

My interest and the public interest in pursuit of this contention will not be protected by the NRC who has produced the contested statements and analysis (2.714b), or by any other intervenor since no similar contentions are accepted (2.714d).

My participation on these economic matters may be reasonably expected to help develop a sound record as it was for my contention 1b (p. 24, 8-14-82 order) in that it requires more a gathering of relevant information than a technical or scientific expertise as so many of the OL issues do. I have established a personal file of Midland plant and Michigan policy documents related to these economic issues,

upon which I rely. I have established contact with several knowledgeable people in Lansing who will likely be able to assist me in pursuit of this contention. There is even a likelihood of my being able to produce a witness on these issues (2.714c).

Lastly, discovery on these issues would not be likely to delay the anticipated late fall OL hearings. Although the litigation of contested economic issues such as I have raised would add slightly to the overall hearing length (by perhaps a day), it would not significantly broaden the accepted OL issues. In fact, only by permitting discovery upon and if necessary litigating the economic issues raised inaccurately, or incompletely in the FES cost/benefit analysis and related statements, can these questions, which significantly affect the public interest, be resolved (2.714e).

Barbara Stamiris

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February 26, 1980

Ms. Barbara Stamiris
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Dear Ms. Stamiris:

I am writing in response to your letter dated February 12, 1980. In it, you asked for information on the source of financial support for uncompleted electric power plants, specifically, Midland Nuclear Power Plant.

It is a long-standing regulatory practice of this Commission that a utility may not earn a rate of return, i.e. obtain earnings, or recover the overall cost of construction of that facility until it is deemed "used and useful" in its basic purpose. That is in keeping with the assumption by the utility of the risk for construction and of meeting demand. Hence, Midland has not and is not in the rate base.

Let me point out, however, a very small exception. Through rather complex accounting measures, two offsetting accounts do not balance and a small portion of the plant cost is supported by ratepayers. I estimate that this burden on a typical residential customer is an amount equal to less than one percent of the monthly customer charges for electric service from Consumers Power Company.

I hope that you find this an adequate answer to your question.

Very truly yours,

Daniel J. Demlow

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