



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

NRC PDR

OCT 12 1978

Docket Nos. 50-329
and 50-330

MEMORANDUM FOR: Wm. H. Regan, Jr., Chief, Environmental Projects
Branch 2, DSE

FROM: O.D.T. Lynch, Jr., Environmental Projects
Branch 2, DSE

SUBJECT: CONSUMERS POWER COMPANY REQUEST TO WITHHOLD PROPRIETARY
DOCUMENT, SECTION 4.C OF GENERAL AGREEMENT BETWEEN
CONSUMERS POWER COMPANY AND THE DOW CHEMICAL COMPANY
DATED JUNE 21, 1978

OFFICE OF THE CHIEF OF BUREAU
D.C.
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Consumer Power Company submitted a copy of Section 4.C of their General Agreement with Dow Chemical Company, dated June 21, 1978, with their application of July 24, 1978 and affidavit of July 14, 1978. This information is to be used in connection with our environmental review of the application for Operating Licenses for the Midland Plant, Unit Nos. 1 and 2. Consumers Power Company requested the document be withheld from public disclosure for the following reasons:

1. "... that Section 4.C of said General Agreement entitled "Monthly Rate" contains confidential business information in that the rates which Dow will pay for process steam and the methods for determining same are set forth therein;"
2. "THAT this information has been held in confidence by the Dow Chemical Company;"
3. "THAT information of this type is customarily held in confidence by the Dow Chemical Company;"
4. "THAT when Consumers Power Company informed Dow that it intended to transmit this information to the Nuclear Regulatory Commission, the Dow Chemical Company requested that Consumers Power Company transmit such information in confidence;"
5. "THAT this information is not available from public sources but said information has and/or will be made available to cooperatives and municipalities negotiating possible purchase of a share of the Midland Nuclear Plant from Consumers Power Company, and their advisors, under suitable agreements providing for nondisclosure and limited use of the information;"

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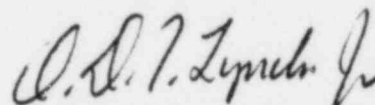
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6. "THAT disclosure of this information to a competitor would cause substantial harm to the competitive position of the Dow Chemical Company because the cost of energy constitutes a significant portion of the manufacturing costs of products produced by the Michigan Division (of the Dow Chemical Company)...and;"
7. "THAT negotiations have begun to resell process steam to others and the disclosure of this information will impair the negotiating position and cause substantial harm to the competitive position of the Dow Chemical Company."

I have reviewed the application and material based on the requirements and criteria of 10 CFR 2.790 and have determined that the above-mentioned document sought to be withheld contains trade secrets or confidential or privileged commercial or financial information. It is my opinion that disclosure of this information would prejudice or compromise the negotiating position in the resale of process steam to others and cause substantial harm to the competitive position of the Dow Chemical Company.

I find that the right of the public to be fully apprised as to the bases for and effects of the proposed licensing actions does not outweigh the demonstrated concern for protection of the owner's proprietary position. The information will be assessed and considered in the environmental review conducted by the Nuclear Regulatory Commission staff in their compliance with the National Environmental Policy Act of 1969. Withholding from public inspection would not affect the right, if any, of persons properly and directly concerned to inspect the document. Public release of the information could cause substantial harm to the competitive position of the Dow Chemical Company. Accordingly, I have determined that the information should be withheld from public disclosure.

In view of the foregoing, I have decided that the request for withholding should be granted.



O.D.T. Lynch, Jr., Sr. Project Manager
Environmental Projects Branch 2
Division of Site Safety and
Environmental Analysis