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OFFICE OF SECRETARY
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BRANCH

October 27, 1983

In the Matter of)
)
CONSUMERS POWER COMPANY) Docket Nos. 50-329-OM
) 50-330-OM
) 50-329-OL
(Midland Plant, Units 1) 50-330-OL
and 2))

Charles Bechhoefer, Esq.
Atomic Safety & Licensing
Board Panel
U.S. Nuclear Regulatory Com-
mission
Washington, D. C. 20555

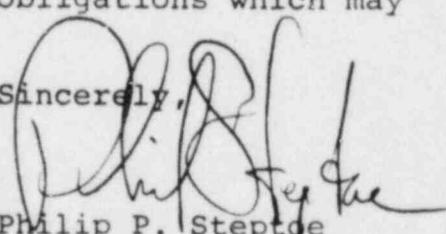
Dr. Jerry Harbour
Atomic Safety & Licensing
Board Panel
U.S. Nuclear Regulatory Com-
mission
Washington, D. C. 20555

Dr. Frederick P. Cowan
6152 N. Verde Trail
Apt. B-125
Boca Raton, Florida 33433

Dear Administrative Judges:

Enclosed is a copy of a Protective Order which has been entered by stipulation in the Dow litigation. Please note that it has been drafted to avoid any conflict with discovery or disclosure obligations which may arise in this NRC proceeding.

Sincerely,


Philip P. Steptoe

PPS:es

enc.

cc Service List

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D503

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF MIDLAND

THE DOW CHEMICAL COMPANY,

Plaintiff,

vs.

CONSUMERS POWER COMPANY,

Defendant.

Case No. 83-002232-CK-D

HON. DAVID SCOTT DEWITT

PROTECTIVE ORDER

At a session of said Court, held in the City of Midland, County of Midland, State of Michigan, on October 20, 1983.

PRESENT: HON. DAVID SCOTT DEWITT
Midland County Circuit Judge

The parties hereto, having stipulated to the entry of this order;
NOW, THEREFORE, IT IS ORDERED as follows:

1. Any document produced by either party to this action (the "Producing Party") for inspection or copying by the other party (the "Discovering Party"), which is designated by the Producing Party as "Confidential", shall be used by the Discovering Party only for the purposes of this litigation and for no other purpose, except as otherwise permitted in this order. The Discovering Party shall not make such documents or the information contained therein available to any person, except:

(a) such employees, former employees and agents of the Discovering Party as are involved in the prosecution or defense of the claims and counterclaims in this action;

(b) attorneys engaged or employed by the Discovering Party and their supporting staffs;

(c) any expert witness, consultant or other person or firm engaged by the Discovering Party or its attorneys to assist in connection with this action;

(d) the United States Nuclear Regulatory Commission, the Michigan Public Service Commission or any other judicial, administrative or legislative body (each of which is hereafter referred to as a "Governmental

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Entity"), or to a party to a proceeding before such Governmental Entity, where such disclosure is made pursuant to:

- (i) the compulsory process or order of such a Governmental Entity; or
- (ii) the obligation of the Discovering Party to make such disclosure to such Governmental Entity or to a party to a proceeding before such a Governmental Entity.

Before making any disclosure under this subparagraph (d), the Discovering Party shall give ten (10) days' prior written notice to the Producing Party of its intent to do so, together with a description of the documents to be disclosed, so as to allow the Producing Party an opportunity to petition the Governmental Entity to whom, or pursuant to whose process, such disclosure is to be made, for such relief as it deems appropriate. The Discovering Party may make the disclosure described in its notice to the Producing Party, unless otherwise ordered by such Governmental Entity prior to expiration of the ten day period described above.

2. By stipulating to this order, neither party has waived its right to assert before any Governmental Entity that the documents which it has designated as "Confidential" shall be treated as such by such Governmental Entity or by any person who, pursuant to the process, procedures or disclosure requirements of such Governmental Entity, comes into possession of such documents or the information contained therein.

3. Nothing in paragraph 1 shall prevent the parties from using documents designated as "Confidential", or the information contained therein, in any proceeding in this action such as, but not limited to:

- (a) discovery depositions;
- (b) motions, briefs and pleadings;
- (c) argument before the Court;
- (d) trial or appeal.

4. The Producing Party may designate particular documents as "Confidential" only by stamping on each page of the document to be so designated the phrase "Confidential Pursuant to the Order of the Midland County Circuit Court." When so designated, the document may be used for all

purposes described in paragraphs 1 and 3, except that any pleadings, briefs or other papers filed by the parties in this action which quote, refer to or attach the "Confidential" document shall be filed with this Court in a sealed envelope with the following text on the outside:

"This envelope contains confidential material filed under seal subject to the provisions of a Protective Order entered by this Court on October 20, 1983. This envelope may not be opened except by the Judge to whom this case is assigned, unless otherwise ordered by this Court."

5. The Clerk of this Court shall maintain all pleadings filed pursuant to the provisions of paragraph 4 in such a manner as to preserve their confidentiality and to prevent disclosure except as permitted in this order.

6. The Producing Party may designate a document as "Confidential" only if it contains Trade Secrets. As used herein, a "Trade Secret" consists of any formula, pattern, device or compilation of information (including a business plan or forecast, a financial plan or forecast, a method, technique or process) that:

(a) is used in one's business and which gives the business an opportunity to obtain an advantage over competitors who do not know or use it; and

(b) has been the subject of efforts by the Producing Party that are reasonable under the circumstances to maintain its secrecy; and

(c) has not previously been publicly disclosed.

The Discovering Party may, by notice in writing to the Producing Party, challenge such designation and, failing agreement between the Discovering Party and the Producing Party as to the appropriateness of such designation, either party may present the matter to this Court for determination.

7. Nothing in this order shall prevent the Discovering Party from disclosing any document designated as "Confidential" by the Producing Party or the information contained therein, free of the restrictions of this order, if such document or information:

(a) is or becomes a matter of public record (except by violation of this order); or

(b) has come into the possession of the Discovering Party

from sources other than through discovery taken of the Producing Party in this action.

8. Any portion of a transcript of a deposition taken in this action (including exhibits attached thereto) of an individual, which is designated by either party as "Confidential", as defined herein, shall be subject to all of the provisions of this order dealing with the production of documents.

9. Before making any documents designated as "Confidential" or the information contained therein available to any person described in paragraph 1(c), the Discovering Party shall obtain from that person a written acknowledgment that he has been given a copy of this order, has read it and agrees to be bound by all of its terms.

10. At the conclusion of this litigation, all documents, including copies, designated by either party as "Confidential" and in the possession of the Discovering Party or any other person to whom such documents were made available by the Discovering Party pursuant to paragraph 1(a-c) of this order (except such documents as were also made available by the Discovering Party pursuant to paragraph 1(d) of this order or were publicly disclosed otherwise than by action of the Discovering Party), shall be returned to the Producing Party unless the parties reach agreement on other arrangements for the disposition of such documents.

11. This order shall be modified upon written stipulation of the parties and may be modified upon motion of either party, for good cause shown.

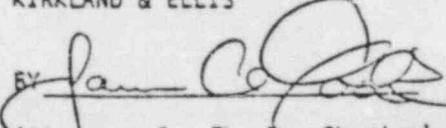
1st David Scott DeWitt
DAVID SCOTT DeWITT
Midland County Circuit Judge

We hereby stipulate to the entry of this order:

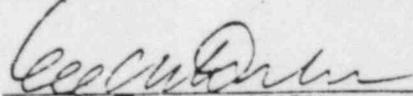
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BY 
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KIRKLAND & ELLIS

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