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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges
Charles Bechhoefer, Chairman
Dr. Frederick P. Cowan
Dr. Jerry Harbour

DOCKETED
USNRC

'84 NOV -2 P2:20

OFFICE OF SECRETARY
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BRANCH

SERVED NOV. 2, 1984

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

Docket Nos. 50-329 OL
50-330 OL

Docket Nos. 50-329 OM
50-330 OM

(ASLBP Nos. 78-389-03 OL
80-429-02 SP)

November 2, 1984

MEMORANDUM AND ORDER
(Dismissing Intervenor's Motion to Cancel
Construction Permits and Application for Operating Licenses)

On October 24, 1984, Ms. Mary Sinclair, an intervenor in the Operating Licensing (OL) proceeding, filed a motion for this Board to "cancel" CPC's construction permits and application for operating licenses. The bases for the motion were (1) CPC's statement in its letter to us dated September 10, 1984, that it had "discontinued all licensing activities" concerning the plant and had requested the NRC Staff to do the same; and (2) CPC's request in the September 10, 1984 letter that it be permitted "to discontinue sending audit reports and nonconformance reports" to the Board and parties and to suspend reporting requirements derived from ALAB-106. Ms. Sinclair observes that the "suspension of all normal reporting requirements for licensing

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is inconsistent" with CPC's desire and intent to retain (and extend) its construction permits and not to withdraw its OL application. Ms. Sinclair further advances certain claims concerning an alleged lack of need for the facility.

We must reject Ms. Sinclair's motion because we lack authority to grant any of the relief she requests -- i.e., cancellation of the construction permits or dismissal of the application for operating licenses. See Consumers Power Co. (Midland Plant, Units 1 & 2), ALAB-674, 15 NRC 1101 (1982).¹ Nor may we entertain during operating-license hearings any claims bearing on need for the facility. 10 C.F.R. § 51.106(c). We note, however, that we have not yet ruled on CPC's request to discontinue certain reporting requirements. We will take Ms. Sinclair's filing into account in ruling on that request.

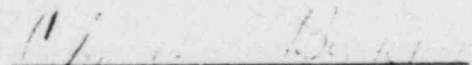
¹ We notified parties of this determination by telephone on November 2, 1984, so that they would not need to file responses to Ms. Sinclair's motion.

For the reasons stated, it is, this 2nd day of November, 1984

ORDERED

That Ms. Mary Sinclair's motion dated October 24, 1984, for cancellation of CPC's construction permits and application for operating licenses is hereby dismissed.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD


Charles Bechhoefer, Chairman
ADMINISTRATIVE JUDGE

Bethesda, Maryland