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June 27, 1977



Frederic J. Coufal, Esq., Chairman
Atomic Safety & Licensing Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Re: Consumers Power Company
Midland Plant
Suspension Hearings

Dear Chairman Coufal:

We enclose various Motions, some of which were due June 24, 1977. We were unable to get them reproduced by that date and thus ask for permission to file them today by mail, essentially one business day later. We trust this will not inconvenience the Board and in no event should slow down the process since all of the Findings are not yet due by the other parties. Hence, we believe the Board will have sufficient time to deal with the admissibility question.

We would like to point out, however, that well over 95% of the objections by the Staff and Consumers to our Exhibits are frivolous. We believe a careful review of Consumers' and the Staff's papers will show that their objections to our documents were filed in bad faith and only intended to delay these proceedings in a desperation move. Almost 99% of the documents we produced were produced by the other parties, yet those other parties took the time to object to documents which their own companies produced on the grounds that the writers of those documents (their own witnesses) were not produced for examination. Based upon my more than 15 years of practice before Federal Courts, there isn't a judge alive who would not have reacted harshly to those kinds of arguments made by Consumers and the Staff.

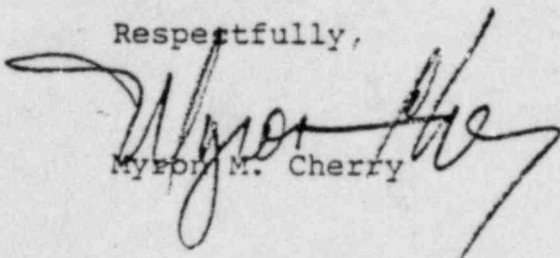
We make this point because responding to Consumers' and the Staff's Motions on the Exhibits took time and money, both of which we do not have in abundance in these proceedings. We also take the time to point this out since it supports our overall position that Consumers' only goal in this proceeding has been to manipulate the events and prevent the Board from seeing the whole truth. The Staff's objections to various documents only underscore the fact that the Staff did not do any advance analysis in this case and was

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Frederic J. Coufal, Esq., Chairman
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hell-bent on supporting Consumers Power Company even to the point of trying to mask their dishonest deficiencies by making personal attacks on the lawyer who brought the information to light.

Respectfully,


Myron M. Cherry

MMC:es
enclosures
cc: Service List

P.S. We also inform the Board that the Court of Appeals has, on June 23, 1977, denied Consumers' Motion to Recall the Mandate and we enclose a copy of that Order.

In light of the papers which were before the Court of Appeals by us which urged immediate suspension, we regard the Court of Appeals' decision as a judicial statement that suspension must take place in order to have fair remanded hearings.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 73-1776

September Term, 19 75

Nelson Meschlian, et al.,
Petitioners

v.

United States of America Atomic Energy Commission, and United States of America
Respondents

United States Court of Appeals
for the District of Columbia Circuit
FILED JUN 23 1977

Consumers Power Co. a Michigan Corp.
Intervenor

GEORGE A. FISHER
CLERK

No. 73-1867

Saginaw Valley Nuclear Study Group,
United Auto Workers,
International, Citizens Committee
for Environmental Protection of
Michigan, West Michigan Environmental
Action Council, Inc., Sierra Club and
University of Michigan Environmental
Law Society,
Petitioners

v.

The Atomic Energy Commission and
The United States of America,
Respondents

Consumers Power Company
Intervenor



BEFORE: Bazelon, Chief Judge; Fahy, Senior Circuit Judge; and
William Wayne Justice*, United States District Judge
for the Eastern District of Texas

ORDER

On consideration of the motion of intervenor Consumers Power Company to recall mandate, of the opposition thereto, and of intervenor's reply to said opposition, it is

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United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

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No. 73-1776 & 73-1867

September Term, 19 76

ORDERED by the Court that the motion of intervenor Consumers Power Company to recall mandate is denied.

Per Curiam

For the Court:

GEORGE A. FISHER
Clerk

*Sitting by designation pursuant to 28 U.S.C. 5292(d)

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