

1-24-74

UNITED STATES OF AMERICA  
BEFORE THE  
ATOMIC ENERGY COMMISSION

In the Matter of	)	
	)	
Consumers Power Company	)	Docket No. 50-329A
	)	50-330A
Midland Plant (Units 1 and 2)	)	

MOTION TO ORDER SUPPLEMENTATION  
OF DOCUMENTS

To: Jerome Garfinkel, Esquire, Chairman, Atomic  
Safety Licensing Board

Pursuant to Sections 2.740 and 2.741 of the Atomic Energy Commission's Rules of Practice, 10 C.F.R., Part 2, Intervenor<sup>\*/</sup>, and the Department of Justice, respectfully request that the Chairman, or the Commission, order Consumers Power Company to produce, for inspection and copying, all Power Supply Studies prepared by or on behalf of Consumers Power Company subsequent to July, 1972. In support of this request petitioners state as follows:

1. The Joint Document Request, filed on behalf of Intervenor<sup>\*/</sup>, The Department of Justice and the Regulatory Staff,

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<sup>\*/</sup> Coldwater, Grand Haven, Holland, Traverse City, and Zeeland Michigan, the Michigan Municipal Electric Association, the Northern Michigan Electric Cooperative and the Wolverine Electric Cooperative.

was dated July 26, 1972. Subsequently, Consumers Power Company supplied the Joint Intervenor's copies of documents relating to these documents requests as contained in the files of the Company as of that date (July 26, 1972).

2. At the time the Joint Document Request was filed, it was contemplated that the hearings would begin in 1972. Such was not to be the case. The Company filed comprehensive discovery requests not only against the Intervenor's municipals, cooperatives, and the Michigan Municipal Electric Association, but also against 21 non-party municipalities and 7 distribution cooperatives served by the G&T intervenors Northern Michigan and Wolverine. This extensive discovery was followed by a second round of interrogatories and document requests and complete examination of the engineering consultant who has served most of the municipalities and cooperatives in Michigan. The result has been that the applicant has been provided current reports and documents from the files of intervenors and non-party municipals. The discovery upon which the Company has embarked has produced in excess of 45,000 pages of documents, endless amounts of time and expense in searching files and reproducing documents, and a delay in the hearing which was not begun until November of 1973.

3. As a result of the time involved in completing the discovery, the data provided by Consumers Power Company is now nearly two years old. It was not contemplated that the Joint Document Request would preclude obtaining incidental particularized supplementation of original requests that might become necessary.

4. The Commission's Rules of Practice indicate clearly that supplementation of responses to discovery is required. Section 2.740(e) (2) of 10 C.F.R. Part 2 states:

"(2) A party is under a duty seasonably to amend a prior response if he obtains information upon the basis of which (1) he knows that the response was incorrect when made, or (2) he knows that the response though correct when made is no longer true and that the circumstances are such that a failure to amend the response is in substance a knowing concealment. (3) A duty to supplement responses may be imposed by order of the presiding officer or agreement of the parties."

5. Likewise the Federal Rules of Civil Procedure (Rule 26(e) (2) ) provides for supplementation of responses, and the language is identical to the Commission's rule quoted above.

6. The information furnished by Consumers Power Company with respect to nuclear generation may have changed since July, 1972. Moreover, since there can be no burden from this

limited request it behooves the Board to order it, especially since it goes to the heart of the case concerning the plans of the applicant, the importance of nuclear generation and its integration into its system. In order to provide a meaningful record, the parties should be provided with the current information available to the Company. Such information is necessary for preparing the cross examination of the company officials and experts.

7. Petitioner's request for current power supply studies will not be a burden, will not require a file search, and should not require extensive reproduction. Power supply studies, particularly those in current use, should be available in sufficient quantities to provide a single copy immediately.

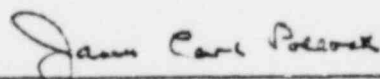
8. We would expect these current power supply studies to provide the following information:

1. The current cost of energy produced by nuclear, fossil, or hydro powered generators.
2. The expected use of nuclear powered generation in the over-all planning of power supply.
3. The integration of proposed nuclear powered generation into the Consumers Power Company system.
4. The coordination of nuclear powered generators with fossil fuel and pumped storage generation.
5. The role of nuclear powered generation into the Michigan Pool and/or into the MIIIO Power Pool.

6. The transmission facilities required to provide access to new generating facilities.
7. Historical data on operations of nuclear powered generation, the cost of producing energy from nuclear powered generators, and the methods used by Consumers Power Company to use this energy in its system.
8. The current effects of the energy crisis on present and proposed generating facilities.

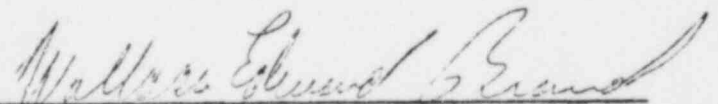
WHEREFORE, for the foregoing reasons, the Intervenor and the Department of Justice, respectfully requests the Presiding Officer to order Consumers Power Company to produce all power supply studies prepared by or in behalf of Consumers Power Company subsequent to July 26, 1972, for inspection and copying as a supplementation of documents produced, or in the alternative, order that the trial presentation of the applicant be restricted to the July 26, 1972 cutoff date.

Respectfully submitted,



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For Intervenor  
James Carl Pollock



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For Department of Justice  
Wallace Edward Brand

AFFIDAVIT

DISTRICT OF COLUMBIA, SS:

James Carl Pollock, being first duly sworn, deposes and says that he is an attorney for Coldwater, Grand Haven, Holland, Traverse City, and Zeeland Michigan, the Michigan Municipal Electric Association, the Northern Michigan Electric Cooperative and the Wolverine Electric Cooperative; and that as such he has signed the foregoing Motion to Order Supplementation of Documents for and on behalf of said party; that he is authorized by Coldwater, Grand Haven, Holland, Traverse City, and Zeeland, Michigan, the Michigan Municipal Electric Association, the Northern Michigan Electric Cooperative and the Wolverine Electric Cooperative so to do; that he has read said Motion and is familiar with the contents thereof; and that the matters and things therein set forth are true and correct to the best of his knowledge, information or belief.

*James C. Pollock*

James C. Pollock

Subscribed and sworn to before me  
this 24th day of January, 1974.

*James J. Zartman*  
Notary Public

My Commission expires September 30, 1974.

CERTIFICATE OF SERVICE

I hereby certify that I have this 24th day of January, 1974, served the foregoing Motion by mailing copies first class postage prepaid to counsel at the following addresses:

Joseph J. Saunders, Esq.  
Department of Justice  
Antitrust Division  
Washington, D.C. 20530

Harold P. Graves, Esq.  
V.P. & General Counsel  
Consumers Power Co.  
212 West Michigan Ave.  
Jackson, Michigan 49201

William Warfield Ross, Esq.  
Wald, Harkrader & Ross  
1320-19th St., N.W.  
Washington, D.C. 20036

Joseph Rutberg, Esq.  
Atomic Energy Commission  
7920 Norfolk Avenue

Jerome Garfinkel, Esq.  
Chairman, Atomic Safety &  
Licensing Board  
Atomic Energy Commission  
Washington D.C. 20545

Abraham Braitman, Chief  
Office of Antitrust &  
Indemnity  
Atomic Energy Commission  
Washington, D.C. 20545

Mr. Frank W. Karas, Chief  
Public Proceedings Branch  
Office of the Secretary  
Atomic Energy Commission  
Washington, D.C. 20545

Wallace E. Brand, Esq.  
Antitrust Public Counsel  
Post Office Box 7513  
Washington, D.C. 20044

Dr. J. Venn Leeds, Jr.  
P.O. Box 941  
Houston, Texas 77001

Hugh K. Clark, Esq.  
P.O. Box 127A  
Kennedyville, Md. 21645

Robert J. Verdisco, Esq.  
Counsel for AEC Regulatory  
Staff  
U.S. Atomic Energy Commission  
Washington, D.C. 20545

Mr. James B. Falahee,  
General Attorney  
Consumers Power Company  
212 West Michigan Avenue  
Jackson, Michigan 49201

Alan S. Rosenthal, Esq.  
Atomic Safety & Licensing  
Board Panel  
U.S. Atomic Energy Commission  
Washington, D.C. 20545

Keith Watson, Esq.  
Wald, Harkrader & Ross  
1320-19th St., N.W.  
Washington, D.C. 20036

*James C. Pollock*

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James C. Pollock

JANUARY 24, 1974

Law Offices Of:

Spiegel & McDiarmid  
2600 Virginia Ave., N.W.  
Washington, D.C. 20037