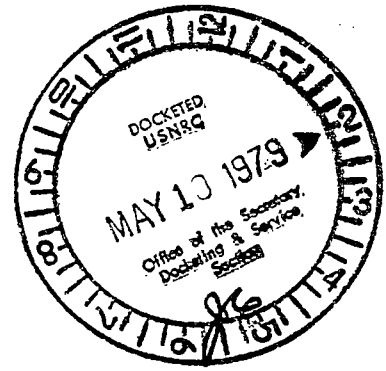


5/7/79



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
CONSUMERS POWER COMPANY) Docket No. 50-255 SP
(Palisades Nuclear Plant))

PREHEARING CONFERENCE STATEMENT OF
INTERVENOR GREAT LAKES ENERGY ALLIANCE

Citizen intervenors who are members of the Great Lakes Energy Alliance (GLEA) present the following key issues to the Licensing Board at the Prehearing Conference on May 9, 1979. The primary issue is that without the full participation of parties other than Consumers Power Co. and the NRC Staff, this Board has no assurance that it will get the facts that it needs to make an intelligent judgment in this proceeding.

Secondly, the Board must consider and, in accordance with applicable law, grant the petitioner funds to be used for attorney fees and for expenses of witnesses and consultants in order to carry on a proper hearing.

In reference to the above mentioned primary issue, we have shown in our response of April 20, 1979, that the Board cannot rely upon Consumers Power Co. or the NRC Staff to disclose all the relevant information to them. In fact, Exhibit 1 of that response specifically states that Consumers Power Co. assumed that Myron Cherry would not appear because the citizens lacked funds, and that since there was no discovery and there would probably be no intervenor cross-examination, that they (Consumers Power) would be able to "finesse" Dow/Consumers' continuing dispute, so that the Licensing Board would know nothing about it. Implicit in this plan was the fact that they could expect that the NRC Staff would not assist in getting the real facts to the Licensing

Board in the Midland suspension hearings. Consumers' attorney, Rex Renfro, of the firm Isham, Lincoln and Beale of Chicago, Illinois, who are also representing Consumers Power Co. in this licensing proceeding, also suggested that the Dow witness be someone from Dow Chemical Co. who was unaware of the Midland Division recommendations to Paul Orefice, President of the Dow Chemical Co., to the effect that the Midland n-plants would be disadvantageous not only to the Midland Division of Dow, but to their employees and the community. This Dow refused to do.

Therefore, we ask this Board to make their need for full participation of the citizens known to the Nuclear Regulatory Commission (NRC) in these proceedings, and to request that funds for the attorneys, witnesses and consultants be provided to the citizens.

There are at least two legal routes by reason of which the NRC can provide these funds for the Great Lakes Energy Alliance.

The Comptroller General of the United States held in Matter of Costs of Intervention--Nuclear Regulatory Commission, B-92288 (Feb. 19, 1976), that the NRC has statutory authority to pay the legal expenses of intervenors. In this decision the comptroller general not only held that the NRC has the authority to pay legal expenses of intervenors, but set forth the standards: (1) the NRC must believe that participation by the intervenor is required by statute or necessary to represent adequately opposing points of view; (2) the intervenor must be indigent or otherwise unable to bear the financial costs of participation.

Also, Public Law 93-438, Section 205 (b) 1,2 (Energy Reorganization Act, October 11, 1974) specifically states that, "Subject to the provisions of this Act, the Director of Nuclear Regulatory Research shall perform such functions as the Commission shall delegate, including . . . engaging in or contracting

for research, which the Commission deems necessary for the performance of its licensing and related regulatory functions." (Emphasis added.)

Under the provisions of this Act, the Commission can make funds available to contract for the services of the attorneys, witnesses and consultants which the citizens in this action will need to exercise their rights and to assist the Board in getting all the facts.

Without this funding assistance from the Commission, not only will the Board remain uncertain as to whether the facts presented to them are complete and accurate, but the citizen intervenors will be denied their Constitutional rights to due process and equal protection under the law.

For too long in nuclear power plant licensing proceedings, citizens and ratepayers have paid the salaries of all the utility and government regulatory parties in nuclear plant licensing and all costs through their taxes and utility rates, with no funds made available from those sources, which they have provided, to pay for their own participation. By definition of the NRC, their right to intervene is based on the fact that the NRC acknowledges that their proximity to the nuclear facilities being licensed places their lives and property at risk.

Citizens must not be denied full participation in licensing proceedings any longer at the same time that they are required to pay all the costs and bear all the risks.

Citizens who are members of the Great Lakes Energy Alliance wish to restate all the issues that were raised in their original petition to intervene, dated February 27, 1979, and to amend PETITIONERS' RESPONSE of April 20, 1979, so as to include the following additional people who live in the vicinity and are deeply concerned about the safety problems at the Palisades n-plant:

- 1) Mr. and Mrs. James Ashley, whose property is Lot 17, Thunder Mt. Heights Subdivision, ac-


ording to Plat thereof, as recorded in Liber 2 of Plats on P. 20, in the Township of Covert, County of Van Buren, and the State of Michigan.

2) Eric Brown, Sr., whose property is Lot 131, of the same Plat as above.

3) Harriet Brooks, who owns property in Forest Dunes, Covert Township, 700 feet from the Covert Township Park and about two miles south of the Palisades plant. The property is 240 front feet and extends to U.S. 33 and has two summer cottages on it which are rented in the summer.

Of necessity, citizens who are members of the Great Lakes Energy Alliance, reserve the right to file a Motion to Amend the Petition to cover these issues and also the Response to the Petition, dated April 20, 1979.

Respectfully submitted,


Mary Sinclair, Vice President
Great Lakes Energy Alliance

Dated at Midland, Michiga
May 7, 1979.

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CERTIFICATE OF SERVICE

I hereby certify that copies of PREHEARING CONFERENCE STATEMENT
OF INTERVENOR GREAT LAKES ENERGY ALLIANCE in the above-captioned
proceeding have been served on the following by deposit in the
United States mail, first class, this 7th day of May, 1979:

Docketing and Service Section
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555,

and hand delivered at the Berrien County Courthouse, St. Joseph,
Michigan, on May 9, 1979, to:

Charles Bechhoefer, Esq.,
Chairman
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Michael I. Miller, Esq.
Martha E. Gibbs, Esq.
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Mary P. Sinclair
MARY SINCLAIR, Vice President,
Great Lakes Energy Alliance