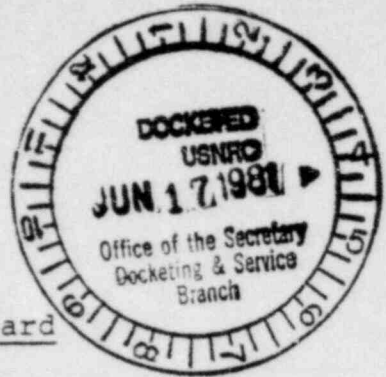


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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Before the Atomic Safety and Licensing Board



In the Matter of

CONSUMERS POWER COMPANY

(Midland Plant, Units 1 and 2)

Docket Nos. 50-329-OM
50-330-OM
50-329-OL
50-330-OL

CONSUMERS POWER COMPANY'S RESPONSE TO MARY SINCLAIR'S
PLEADING CAPTIONED "TESTIMONY BASED ON THE BRIEF OF
PATRICK J. DEVLIN OF THE ATTORNEY GENERAL'S OFFICE OF
MICHIGAN, AND ALAN J. BARAK, ATTORNEY FOR MICHIGAN
CITIZENS' LOBBY ON THE COST-BENEFIT ANALYSIS OF THE
MIDLAND N-PLANTS THAT IS DIRECTLY RELATED TO DATA
DEVELOPED THUS FAR IN THE OM-OL PROCEEDINGS ON THE SOIL
REMEDIAATION ISSUES."

Pursuant to 10 CFR §2.743(c), (d), (f) and 10 CFR §2.730(c) Consumers Power Company ("Consumers Power") objects to Ms. Sinclair's apparent motion to have the pleading entitled "Brief of Attorney General and Michigan Citizens' Lobby" ("Brief") (dated March 12, 1981) filed in Michigan Public Service Commission Case no. U-6360, In the Matter of the Application of Consumers Power Company Authority to Issue Securities incorporated by reference into the Midland OM/OL proceeding and moves to strike the alleged evidence.

The grounds for this objection and motion to strike are the following:

1. The Brief itself is not evidence. Statements and conclusions, even if purportedly based on testimony, by

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the writers of the Brief are not competent evidence.

2. Ms. Sinclair has not, as she must, designated a sponsor for the portions of testimony contained in the Brief.

3. The issues of cost-benefit analysis and need for the Midland Plants which appear to be the gravamen of the Michigan Public Service Commission proceeding are not issues in the OM/OL hearing and hence any evidence relating to them is not relevant.

4. Any evidence regarding alleged financial and time schedule pressure is relevant to the contentions admitted in this proceeding only if it "directly and adversely affects resolution of soil settlement issues" (Stamiris Contention 2). Consumers Power has not been able to locate any testimony in the Brief dealing with alleged financial and time schedule pressures. Even if such testimony existed the linkage to adversely affecting resolution of soil settlement issues must be made. No such linkage is made.

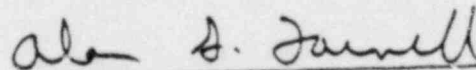
5. Even assuming that the testimony contained in the Brief is admissible it must comply with 10 CFR §2.743(c) which states that "immaterial or irrelevant parts of an admissible document must be segregated and excluded so far as is practicable." This means that the specific portions of the testimony must be segregated from the rest of the Brief and Ms. Sinclair has not done so.

6. In order for testimony taken in one proceeding to be used in another proceeding certain requirements must be

met, including identity of subject matter and parties in interest. It is obvious that neither of these requirements are present here.

For the aforementioned reasons Consumers Power objects to Ms. Sinclair's apparent motion and moves to strike the alleged evidence.

Respectfully submitted,



Alan S. Farnell
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