

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
SEVENTH REGION

CONSUMERS POWER COMPANY )

and )

MICHIGAN STATE UTILITY )  
WORKERS COUNCIL )  
\_\_\_\_\_ )

Case No. 7-CA-19737

ANSWER

Now comes Respondent, Consumers Power Company, by its attorney,

A. T. Udeys, and answers the Complaint in the above matter as follows:

1. Respondent admits the allegations of paragraph 1.
2. Respondent admits the allegations of paragraph 2.
3. Respondent admits the allegations of paragraph 3.
4. Respondent admits the allegations of paragraph 4.
5. Respondent admits the allegations of paragraph 5.
6. Respondent admits the allegations of paragraph 6.
7. Respondent admits the allegations of paragraph 7.
8. Respondent admits the allegations of paragraph 8.
9. Respondent denies the allegations of paragraph 9 for the reason that they are not true.
10. Respondent admits that it did not bargain with the Union concerning certain restrictions on operator overtime imposed by the Nuclear Regulatory Commission; Respondent denies the remaining allegations of paragraph 10 for the reason that they are not true; Respondent avers that the Union did not request any "opportunity to negotiate and bargain" about such restrictions.
11. Respondent denies the allegations of paragraph 11 for the reason that they are not true.
12. Respondent denies the allegations of paragraph 12 for the reason that they are not true.
13. Respondent denies the allegations of paragraph 13 for the reason that they are not true.
14. Respondent denies the allegations of paragraph 14 for the reason that they are not true.

AFFIRMATIVE DEFENSES

1. The alleged restrictions on overtime were imposed by the Nuclear Regulatory Commission and not by the Respondent and, as a matter of law, compliance with an applicable order of a regulatory agency cannot constitute a refusal to bargain.

2. The Respondent has bargained with the Union concerning the effects of any order of the Nuclear Regulatory Commission. The results of that bargaining are incorporated in the applicable labor agreement (a copy of which was forwarded to the NLRB, Region VII, by letter dated September 25, 1981) as Article XXI, and provide as follows:

"In the event that any provision of this Agreement shall conflict with any Federal or State law, order, directive, regulation, permit provision or license provision now or hereafter enacted or issued, such provision hereof shall not remain operative or binding upon the parties, but the remaining portion of this Agreement shall remain in force and effect."

The alleged overtime restrictions were imposed pursuant to a Federal order and, therefore, cannot constitute a refusal to bargain.

3. The Respondent has the right, under the applicable labor agreement, to increase or decrease overtime hours as it deems fit.

4. The NLRB has no jurisdiction in this matter.

WHEREFORE, it is requested that this Complaint be dismissed.

Respectfully submitted,

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A. T. Udry  
Attorney for Consumers Power Company  
Business Address:  
212 West Michigan Avenue  
Jackson, MI 49201

Dated: October 15, 1981

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

'81 OCT 27 P2:52

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of )

CONSUMERS POWER COMPANY )

(Palisades Nuclear Power Facility) )

Docket No. 50-255 SP

NOTICE OF APPEARANCE

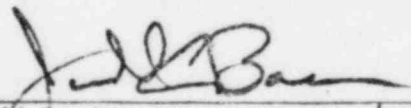
Notice is hereby given that the undersigned attorney herewith enters an appearance in the above-captioned matter. In accordance with §2.713, 10 CFR Part 2, the following information is provided:

Name: Judd L. Bacon

Address: Legal Department  
Consumers Power Company  
212 West Michigan Avenue  
Jackson, Michigan 49201

Telephone Number: (517) 788-1366

Admissions: Supreme Court of Michigan  
United States District Court for Western  
District of Michigan

  
\_\_\_\_\_  
Judd L. Bacon  
Counsel for Consumers Power Company

Dated at Jackson, Michigan  
this 23rd day of October, 1981.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD



In the Matter of )  
 )  
CONSUMERS POWER COMPANY )  
 )  
(Palisades Nuclear Power Facility) )

Docket No. 50-255 SP

CERTIFICATE OF SERVICE

I hereby certify that copies of Brief of Consumers Power Company In Support of Order Ruling on Petition to Intervene and the Notice of Appearance for Judd L. Bacon in the above-captioned proceeding were served upon the following persons by depositing copies thereof in the United States mail, first class postage prepaid, this 23rd day of October, 1981:

Alan S. Rosenthal, Chairman  
Administrative Judge  
Atomic Safety and Licensing  
Appeal Board  
US Nuclear Regulatory Commission  
Washington, DC 20555

Thomas S. Moore  
Administrative Judge  
Atomic Safety and Licensing  
Appeal Board  
US Nuclear Regulatory Commission  
Washington, DC 20555

Christine N. Kohl  
Administrative Judge  
Atomic Safety and Licensing  
Appeal Board  
US Nuclear Regulatory Commission  
Washington, DC 20555

Dr. Peter Morris  
Administrative Judge  
Atomic Safety and Licensing Board  
US Nuclear Regulatory Commission  
Washington, DC 20555

Dr. Jerry R. Kline  
Administrative Judge  
Atomic Safety and Licensing Board  
US Nuclear Regulatory Commission  
Washington, DC 20555

Atomic Safety and Licensing Appeal  
Board Panel  
US Nuclear Regulatory Commission  
Washington, DC 20555

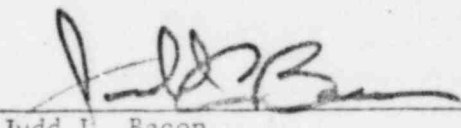
Atomic Safety and Licensing Board  
Panel  
US Nuclear Regulatory Commission  
Washington, DC 20555

Elizabeth S. Bowers, Chairman  
Administrative Judge  
Atomic Safety and Licensing Board  
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Washington, DC 20555

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US Nuclear Regulatory Commission  
Washington, DC 20555

  
\_\_\_\_\_  
Judd L. Bacon  
Counsel for Consumers Power Company