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April 1, 1985

Alan S. Rosenthal, Chairman
Thomas S. Moore
Atomic Safety and Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

In the Matter of
Consumers Power Company
(Midland Plant, Units 1 and 2)
(Docket Nos. 50-329 OL&OM and 50-330 OL&OM)

Dear Chairman Rosenthal and Administrative Judge Moore:

On behalf of Bechtel Power Corporation ("Bechtel"), we have reviewed the Licensing Board's Partial Initial Decision, dated January 23, 1985 (LBP-85-2). It makes a number of references to the performance of Bechtel at Midland which, in our view, were unwarranted, particularly because Bechtel was not a party to the proceeding. We have also reviewed the Order of the Atomic Safety & Licensing Appeal Board, dated March 13, 1985, which invites the parties to comment on two issues set out therein by April 1, 1985. While, as noted above, Bechtel has been a nonparty, it nevertheless has an obvious interest in at least the second issue set out in your March 13, 1985 Order, and accordingly respectfully requests that you consider these comments.

Because of the Midland project's deactivated status, we agree with the Appeal Board's expressed doubt that LBP-85-2 serves "...any useful purpose, let alone the public interest," and we agree that Appeal Board review, at this time, is not necessary and perhaps would be a misuse of public resources. Accordingly, the better course is to continue the matter under review, subject to reopening in light of then-current information, if and when the project is reactivated.

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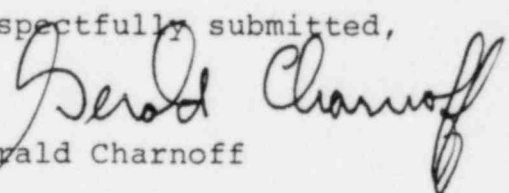
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We are seriously concerned about the suggestion in your March 13, 1985 Order that it might be appropriate to dismiss Consumers' operating license application for Midland at this time. The project now has been deactivated, but it has not been cancelled. Indeed, Consumers has undertaken to maintain the construction site and the equipment thereon in a condition which would allow restart of work, if that decision is later made, under NRC's continuing oversight. Under these circumstances, it would be inappropriate to now compel dismissal of the application and it could irreparably harm any later attempts to complete the Midland plant.

There are a number of plants, like Midland, whose construction has been suspended, but which may yet be completed. Depending on growth in demand for electric power, and resolution of outstanding regulatory problems, several of these units may be economically reactivated. Termination of their construction permits or dismissal of operating license applications could increase substantially both the cost and schedule of completing many of these plants. Accordingly, we submit that a precedent of compelling dismissal of the operating license application should not be established at Midland, or similar plants, where the decision to cancel has not been taken. The public interest would be better served, we believe, by placing the Midland operating license application in suspension until a final decision is made to complete the facility or to abandon it as a nuclear unit.

Respectfully submitted,


Gerald Charnoff

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