

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ARANDELL CORPORATION, *et al.*,

Plaintiffs,

v.

XCEL ENERGY INC., *et al.*,

Defendants.

ORDER

07-C-076-C

Before the court is defendants' request that this court reconsider its order granting jurisdictional discovery to plaintiffs. *See* *dk.* 106 (motion) and 103 (order). Defendants argue that they should not be subjected to this expense absent a *prima facie* showing of jurisdiction by plaintiffs, and that in any event, this court should wait until the MDL panel has weighed in, especially since the auguries presage transfer. *See* *dk.* 107. Plaintiffs disagree, accusing defendants of misrepresentation and desperation, and claiming that reconsideration is not merited in this case. *See* *dk.* 111. Defendants reply by conceding that they overstated a couple of facts, but contending that they nevertheless are entitled to the substantive relief they are requesting. *See* *dk.* 113.

As a preliminary matter, although plaintiffs suggest otherwise, there are no procedural roadblocks or onerous burdens of persuasion inhibiting reconsideration. This court often reviews its own orders at a party's request in order to ensure a fair and accurate result. That's all the more true here, given this court's terse order granting plaintiffs' motion.¹

¹ Plaintiffs filed their motion on April 3, 2007 and the court perfunctorily granted it (in part) on April 17, 2007, because I assumed from defendants' fortnight of silence that they did not oppose it. This assumption was based on this court's requirement that responses to discovery motions are due within five calendar days. But defendants had not received on-the-record notice of this requirement because I

Both sides have submitted lengthy briefs on the issue, but I am temporarily setting them aside to focus on the announcement of the MDL hearing later this month. As clarified by defendants in their reply brief, dkt. 113 at 2, n.2, the MDL panel has scheduled defendants' motion to transfer for a May 31, 2007 hearing without oral argument. Why schedule a hearing if you don't want to hear from the parties? Is it to announce a transfer ruling from the bench? If so, then why not just issue a written order? Defendants characterize this hearing as a "procedural anomaly"; whatever, it is sufficiently imminent that this court shall stay all activity until the hearing is held and the parties report back. There is no downside to a short truce in the jurisdictional discovery melée while we await a potentially dispositive pronouncement from the MDL panel. Obviously, what happens next in this court depends on what the MDL panel does on May 31, 2007.

Therefore, it is ORDERED that defendants' motion for reconsideration is GRANTED IN PART: jurisdictional discovery is STAYED pending further order of this court. Within two business days after conclusion of the MDL panel hearing the parties are to submit letters reporting what the panel did and what they want this court to do in this case as a result.

Entered this 22nd day of May, 2007.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge

cancelled the preliminary pretrial conference pending resolution of the myriad dismissal motions. Although local counsel would have known this court's S.O.P. in civil litigation, it would be unfair to conclude that defendants waived their right to oppose plaintiffs' request for discovery.