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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
THE DETROIT EDISON COMPANY)	Docket No. 50-341
(Enrico Fermi Atomic Power)	(Operating License)
Plant, Unit 2))	

APPLICANTS' ANSWER TO CEE'S MOTION
FOR CHANGE IN DISCOVERY SCHEDULE

On August 7, 1979^{1/} counsel for Applicants^{2/} received by mail a document entitled "CEE's Response to Applicants' Motion for Summary Disposition and Request for Clarification of Discovery and Hearing Schedule." The first paragraph of this document is a withdrawal by CEE of Contention 11, the subject of Applicants' July 19 motion for summary disposition. Since Applicants and the intervenor now agree that the contention is not in issue, Applicants urge the Board to enter an order formally disposing of the contention.

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1/ The certificate of service accompanying this and other documents was dated August 3, 1979. The envelope in which Applicants' counsel received these documents, however, was postmarked August 4, 1979.

2/ The Detroit Edison Company ("Detroit Edison"), Northern Michigan Electric Cooperative, Inc., and Wolverine Electric Cooperative, Inc. are joint applicants for an operating license for the Enrico Fermi Atomic Power Plant, Unit No. 2 ("Fermi 2") and are collectively referred to as "Applicants".

The second paragraph ^{3/} of CEE's document is cast as a "request for clarification". The language of this paragraph, however, could be construed by the Board to be a motion for an extension of the discovery schedule in this proceeding. Applicants submit, however, that the document is insufficient properly to be viewed as such a motion. If the Board nevertheless so construes this document, Applicants vigorously oppose the motion.

CEE's motion is based upon a mistake of fact. CEE states that Detroit Edison recently announced that the "start-up" of Fermi 2 would be delayed eighteen months due to Detroit Edison's need to review the implications of the accident last spring at the Metropolitan Edison Company's Three Mile Island nuclear power station. In fact, Detroit Edison did not announce an eighteen-month delay in the Fermi 2 project because of the Three Mile Island accident. Rather, Detroit Edison announced in April 1979 that it would undertake a thorough re-examination of all safety and cooling systems at Fermi 2 and in its planned nuclear units. Detroit Edison Public Information Release, April 10, 1979. At that time Detroit Edison stated that this safety review possibly

^{3/} The balance of CEE's document deals with the NRC Staff's interrogatories to CEE and a change in counsel. These paragraphs do not require a response by Applicants.

could delay the commercial operation of Fermi 2 then scheduled for December, 1980, but that construction and licensing efforts would continue as scheduled. Detroit Edison's subsequent announcement that fuel loading of Fermi 2 is now scheduled for May 1981 reflects Detroit Edison's estimate, in view of the reallocation of NRC efforts, of some delay in the expected completion of NRC review of Fermi 2. Detroit Edison, however, has consistently maintained its commitment to the earliest possible completion of the licensing process.^{4/}

Further delay in the licensing schedule of Fermi 2 will cause financial and planning difficulties for Applicants. A change in the discovery or hearing schedule for Fermi 2, furthermore, is not required by the NRC's announced scheduling of regulatory tasks following the Three Mile Island incident. The May 19, 1979 memorandum from Harold R. Denton, Director of Nuclear Reactor Regulation to the Commission indicates that the NRC intends that the Fermi 2 operating license review be carried out expeditiously.

Applicants, therefore, respectfully request that, if the Board does construe this document as a motion by CEE to extend the discovery schedule in the proceeding, the

4/ CEE may have confused the Fermi 2 project with Detroit Edison's announcement regarding the planned nuclear generating units at the Greenwood power station. Detroit Edison Public Information Release, June 25, 1979.

Board deny such motion. Applicants further request that the Board grant Applicants' pending motion to compel CEE to answer promptly and completely Applicants' first round discovery requests.

Respectfully submitted,

LeBOEUF, LAMB, LEIBY & MacRAE

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August 20, 1979

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CERTIFICATE OF SERVICE

I hereby certify that I have this 20th day of August, 1979 served the foregoing document entitled "Applicants' Answer to CEE's Motion for Change in Discovery Schedule" by mailing copies thereof, first class mail, postage prepaid and properly addressed, or by personal delivery, as so indicated, to the following persons:

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