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FINAL REPLY:

Andrew V. Antrassiain  
Utility Workers Union of America, AFL-CIO

TO:

Reyes, EDO

FOR SIGNATURE OF :

\*\* GRN \*\*

CRC NO:

Dyer, NRR

DESC:

ROUTING:

2.206 - Fermi

Reyes  
Virgilio  
Kane  
Silber  
Dean  
Burns  
Caldwell, RIII  
Cyr, OGC  
Williams, NRR  
Goldberg, OGC

DATE: 04/11/06

ASSIGNED TO:

CONTACT:

NRR

Dyer

SPECIAL INSTRUCTIONS OR REMARKS:

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Andrew V. Antrassian, Recording Secretary  
Local 223, Fermi Division  
Utility Workers Union of America, AFL-CIO  
6400 N. Dixie Highway  
Newport, MI 48166

(734) 586-5248

April 5, 2006

Luis A. Reyes  
Executive Director for Operations  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Subject: Request for Action Pursuant to 10 CFR 2.206

Dear Mr. Reyes:

The purpose of this letter is to provide the Nuclear Regulatory Commission (NRC) with information related to a situation that has arisen at the Detroit Edison Company's Fermi Nuclear Power Plant and to request the NRC take action as may be proper pursuant to 10 CFR 2.206.

#### Background

The Utility Workers Union of America (UWUA), AFL-CIO, Local 223, Fermi Division, currently represents approximately 220 employees at the Detroit Edison Company's Fermi Nuclear Power Plant in classifications which include Radiation Protection, Warehouse, Chemistry, Maintenance, and Operations. All Detroit Edison employees working at Fermi who are unionized are represented by the UWUA. The UWUA has negotiated a contract for Detroit Edison employees and has a well established and long standing history of organizing and representing personnel at Fermi. The Operations personnel represented by the UWUA at Fermi are non-licensed operators.

At this time, 31 reactor operators, who are currently unrepresented, are seeking representation through a petition with the National Labor Relations Board (NLRB) – Seventh Region (Case Number 7-RC-22919). The petition was filed by the International Brotherhood of Electrical Workers (IBEW), Local 8. The UWUA, Local 223, intervened in this case and is therefore a party in the proceedings. Detroit Edison's position in this case has been that the reactor operators are supervisors and therefore ineligible to organize. The potential safety implications which constitute the basis for this 2.206 petition have not been addressed by Detroit Edison in their treatment of this case.

Prior to the NLRB hearing the representation proceeding, there was a decision by the AFL-CIO that both the IBEW and the UWUA could seek to organize these employees. While the UWUA acknowledges the IBEW's right to organize and the reactor operators' right to choose, there are certain potential adverse safety consequences which must be considered, notwithstanding those rights.

Reactor operators are represented at many nuclear power facilities under the jurisdiction of the NRC. However, if the IBEW is successful in their organizing campaign with these reactor operators, Fermi will uniquely be the only nuclear power facility in which licensed reactor operators are represented by a separate and distinct union than non-licensed operators. This is not coincidental, as there are potential serious issues that can arise when a nuclear power facility's operating authority is divided in any way.

The NRC has jurisdiction in this matter based on their pervasive scheme of regulation at nuclear power facilities. Furthermore, the act of representing reactor operators at a nuclear power facility has a direct and significant impact on nuclear safety, and on the public health and safety and common defense and security.

#### Action Requested

The UWUA, Local 223, Fermi Division, requests the NRC take action as may be proper pursuant to 10 CFR 2.206 to prevent the operating authority at the Fermi Nuclear Power Plant from being divided in a manner which hinders and obstructs the preferred, normal, and natural progression of non-licensed operator to licensed reactor operator.

#### Facts That Constitute the Basis for Requested Action

Non-licensed operators comprise the primary pool from which licensed operator candidates are recruited. USNRC Regulatory Guide 1.8, "Qualification and Training of Personnel for Nuclear Power Plants", and INPO National Academy for Nuclear Training ACAD 00-003, "Guidelines for Initial Training and Qualification of Licensed Operators", both state in part that reactor operator license candidates should have completed six months as a non-licensed operator at the site where licensure is being sought.

The word "should" in the above referenced documents allows some flimsy argument as to whether non-licensed operators comprise an exclusive pool from which licensed reactor operator candidates are selected. However, there is no rational argument against identifying non-licensed operators as the most desirable, best suited licensed reactor operator candidates from the standpoints of knowledge, qualification, and experience. Furthermore, the practice at Fermi has been to recruit licensed reactor operator candidates from the Fermi non-licensed operator pool almost without exception. Based on desirability and practice, non-licensed operators do in fact comprise an exclusive pool from which licensed reactor operator candidates are recruited at Fermi.

If the IBEW is successful in their campaign to organize reactor operators at Fermi then a non-licensed operator would be required to leave the UWUA and join the IBEW in order to pursue reactor operator licensure. Current Detroit Edison Company/UWUA collective bargaining agreement contract language specifies that when bargaining unit positions become available, those positions are first offered to members of the division (i.e., UWUA members working at Fermi) and then to company employees at large. This language is common and typical of utility worker collective bargaining agreement contract language throughout the country. In effect, a non-licensed operator pursuing reactor operator licensure would leave behind their seniority and benefits under the UWUA, Local 223, contract.

Consequently, if a licensed operator candidate is unsuccessful, either voluntarily or involuntarily, in their attempt at reactor operator licensure (as an IBEW member), then return to their former non-licensed operator position (a UWUA position) would be unlikely. Note that in the current licensed reactor operator class at Fermi, two of the six licensed reactor operator candidates were involuntarily removed from class approximately one month prior to the NRC license examination, and another two failed the examination in their first attempt. Further note that in the class immediately preceding the current class, one licensed reactor operator candidate voluntarily left license class.

The effect of the above on non-licensed operators considering reactor operator licensure will be to instill a deep reluctance and unwillingness to attempt licensure. This aversion will be based on the knowledge that if they are unable to successfully complete the reactor operator license requirements, for whatever reason, return to their former non-licensed operator position (or any other bargaining unit position) would be unlikely since their rights to jobs within the Local 223 bargaining unit would be relinquished when they accepted an IBEW represented position as a licensed reactor operator candidate. This reluctance will translate into a severe decrease in the number of knowledgeable, qualified, and experienced personnel from the exclusive licensed reactor operator candidate pool who are willing to attempt reactor operator licensure. This shortage of candidates will in turn result in a shortage of licensed reactor operators at Fermi.

Ultimately, this resulting shortage of licensed reactor operators will have a direct and significant adverse impact on nuclear safety at Fermi.

In fact, this reluctance to attempt reactor operator licensure on the part of Fermi non-licensed operators has already become evident. On March 1, 2006, a job posting for six Nuclear Supervising Operators (i.e. licensed reactor operators) was published by Detroit Edison. The application deadline for this position expired on March 8, 2006. Four applications were received for this position. Only one of the applications was from a current Fermi non-licensed operator. Two applications were from former licensed reactor operators no longer working at Fermi and one application was not accepted. The non-licensed operator applicant is one of the two former licensed reactor operator candidates that were involuntarily removed from the current licensed reactor operator class at Fermi. Detroit Edison subsequently withdrew this Nuclear Supervising Operator job posting.

The NRC should show interest in this matter based on the adverse safety consequences both at Fermi and throughout the nuclear power industry. Allowing a nuclear power facility's operating authority to be divided in a manner which hinders and obstructs the preferred, normal, and natural progression of non-licensed operator to licensed reactor operator establishes a dangerous precedent which has a direct and significant adverse impact on the public health and safety and common defense and security.

Based on this information, the UWUA, Local 223, Fermi Division, requests the NRC take action as may be proper pursuant to 10 CFR 2.206.

Sincerely,

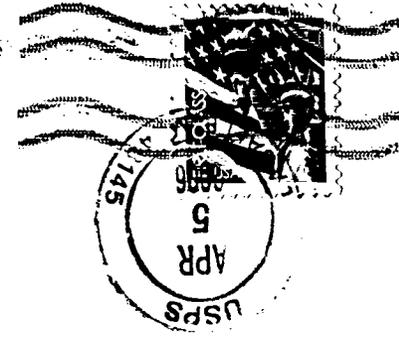


cc: D. E. Wightman, National President, UWUA  
E. D. Hill, International President, IBEW  
R. J. Battista, Chairman, NLRB  
S. M. Glasser, Regional Director, NLRB Region 7  
A. F. Earley, Chairman and CEO, DTE Energy  
R. M. Morris, Fermi 2 Senior Resident Inspector, USNRC

Local 223, Fermi Division  
UWUA  
6400 N. Dixie Highway  
Newport, MI 48166

DETROIT MI 482

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Luis A. Reyes  
Executive Director for Operations  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

20555+0001

