

DOCKET NO. 50-316  
DOCKET NO. 50-320

APR 7 1978

MEMORANDUM FOR: Files

FROM: W. O. Miller, Chief, License Fee Management Branch, ADH

SUBJECT: OPERATING LICENSE FEES - COOK 2 AND THREE MILE ISLAND 2

On December 15, 1977 and January 18, 1978, NRR notified LFMB that they expected to issue full power licenses to the Donald C. Cook Nuclear Plant, Unit 2 and Three Mile Island Nuclear Station, Unit 2, respectively. Indiana & Michigan Electric Company (Cook 2) and Metropolitan Edison Company (Three Mile Island 2) were promptly notified of the operating license fees due upon issuance of the licenses.

On December 23, 1977, NRR issued Facility Operating License DPR-74 for the operation of Cook 2 and Indiana Michigan Electric Company paid the operating license fee of \$877,335 which was based on full (100%) power operation. Paragraph 2.C.(1) of the license, which specifies the maximum power level, states that "Indiana and Michigan Power Company is authorized to operate the facility at steady state reactor core power levels not in excess of 3391 megawatts thermal in accordance with the conditions specified herein and in Attachment 1 of the license." Thus, the operation of the facility was restricted to the sequence of operational modes described in Attachment 1 to the license until the preoperational tests, startup tests and other items noted in Attachment 1 were completed. The license requires the licensee to notify the Commission of the completion of the tests and the Commission must determine that the tests have been satisfactorily completed. On March 23, 1978, the effective date of the revised fee schedule, Cook 2 had authority for Mode 1 operation not to exceed 678 megawatts thermal (20% power of the rated core power of 3391 megawatts thermal). On February 8, 1978, NRR issued Facility Operating License DPR-73 for the operation of Three Mile Island 2 and Metropolitan Edison Company paid the operating license fee of \$762,820 which was based on full (100%) power operation. Paragraph 2.C.(1) of the license, which specifies the maximum power level, states that "Metropolitan Edison Company is authorized to operate the facility at a core power level of 2772 megawatts thermal. Prior to attaining that power level, Metropolitan Edison shall comply with the appropriate conditions identified in Paragraph (3) below and complete the preoperational tests, startup tests, and other items identified in Attachment 2 to this license in the sequence specified."

12 146

773110355

7905040217

P

APR 7 1978

Thus, the operation of the facility was restricted to the sequence of operational modes and other events described in Attachment 2 to the license until the preoperational tests, startup tests and other items noted in Attachment 2 were completed. The license requires the licensee to notify the Commission of the completion of the tests and the Commission determines that the tests have been satisfactorily completed. On March 23, 1978, the effective date of the revised fee schedule, Three Mile Island 2 was authorized to proceed to operational Mode 4 (hot shutdown).

The question arose as to whether there were additional operating license fees due for the two units described above since they had not reached full (100%) power operation on March 23, 1978, the effective date of the revised license fee schedule. Footnote 1 to 10 CFR 170.21 reads that "where a partial fee for a power reactor operating license has been paid prior to the effective date of this amendment, the amount paid shall be deducted from the fee prescribed by this amendment and the difference will be due when the operating license for 100 percent power is issued." In these two cases, "full" operating license fees were paid under the schedule existing at the time the license was issued. Accordingly, we are advised by the OELD that the Commission is precluded for assessing additional operating license fees under the revised schedule. Footnote 1 to 10 CFR 170.22 reads in part that "License amendments . . . resulting in an initial increase in power to 100 percent of the initial design power level are not subject to these fees . . ." Therefore, amendments issued to these operating licenses authorizing initial increases in power up to 100 percent of the initial design power level, will not be assessed an amendment fee under the revised schedule.

Original Signed by  
Wm. O. Miller

William O. Miller, Chief  
License Fee Management Branch  
Office of Administration

Approved: ORIGINAL SIGNED BY  
Daniel J. Donoghue

Daniel J. Donoghue, Director  
Office of Administration

## DISTRIBUTION:

Docket Files (2)  
Reactor Files (2)  
Reactor Fee File (5-15)  
R/F (2)  
ESCoupe  
R. Diggs

19 147

OFFICE	LFMB:ADM	LFMB:ADM	LFMB:ADM	ELD	ADM	
SURNAME	CHolloway:slc	RDiggs	WOMiller	RFonner	WDDJDonoghue	
DATE	3/ 78	3/ 78	3/ 78	3/ 78	3/ 78	