Department of Justice
Washington, D.C. 20530

Attachment 1

AUG 16 1971

Bertram H. Schur, Esquire
Associate General Counsel
United States Atomic Energy Commission
Washington, D. C. 20545

Re: Detroit Edison Company
Enrico Fermi Unit No. 2
AEC Docket No. 50-341A
Department of Justice File 60-415-28

Dear Mr. Schur:

You have requested our advice pursuant to the provisions of Section 105 of the Atomic Energy Act of 1954, 68 Stat. 919, 42 U.S.C. 2011-2296 as amended by P.L. 91-560, 84 Stat. 1472 (December 19, 1970), in regard to the above cited application.

Applicant

Applicant is the largest electric utility in Michigan, in terms of electric load although the geographic area covered by applicant is less than that of Consumers Power Company. Its operation and planning are closely coordinated with that of Consumers and other adjacent systems as more fully described to you in our letter of June 28, 1971, concerning Consumers' Midland applications in Docket Nos. 50-329A and 50-330A.

Our preliminary study of the application indicated the possibility that contractual limitations in the Michigan pool agreement might unreasonably restrict entrance of third parties into the pool or coordination between each of the pool members and third party systems in Michigan.

In a meeting with the Applicant, these questions were discussed and Applicant stated that it interpreted the contract not to restrict interconnection between either of

the pool members and a third party and not to restrict coordinated planning and operations with that third party of various kinds, including but not limited to emergency power exchanges, deficiency or unit power transactions, and economy energy transactions.

Applicant further stated that Article I, Section 8 of the contract which provides:

> By mutual agreement of the parties hereto, the parties may enter into pooling arrangements with a third party. Such third parties may participate in added economies which result from such pooling arrangements. The Special Agreements required with these third parties shall be included in Supplement E of Part II of this Agreement, and shall include provisions for initiation and termination thereof.

was not intended unreasonably to restrict admission of any third party into a multilateral pooling arrangement as part of the Michigan pool. Applicant has submitted a commitment to eliminate that provision, or to revise it, or otherwise to indicate that it would consent to the admission of any third party which could meet specified reasonable criteria.

Accordingly, we believe that no antitrust hearing will be necessary and that proper accommodation of antitrust policy and power needs will be effectuated by imposition by the Commission of a license condition requiring the Applicant to fulfill the assurances set forth in its letter of August 13, 1971, which is attached hereto. As that letter indicates, the Applicant has no objection to this procedure.

Sincerely yours,

RICHARD W. McLAREN
Assistant Attorney General
Antitrust Division