



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

FEB 12 1990

Docket No. 50-341
License No. NPF-43
EA 88-106

The Detroit Edison Company
ATTN: Mr. W. McCarthy
Chairman of the Board and
Chief Executive Officer
6400 North Dixie Highway
Newport, MI 48166

Gentlemen:

SUBJECT: ORDER MODIFYING LICENSE AND NOTICE OF VIOLATION (NRC INVESTIGATION
REPORTS NOS. 3-85-019, 3-86-002, 3-86-006 AND 3-86-015)

This refers to the NRC inspections and investigations that disclosed violations which occurred during the period 1984 through 1986 at the Fermi 2 facility. An enforcement conference to discuss the violations, their causes, and your corrective actions was held at the Fermi site on April 27, 1989. A subsequent meeting to obtain further information regarding the seismic and embedment issues was held on May 23, 1989, in the Region III office.

Although the violations set forth in the enclosed Notice of Violation (Notice) occurred several years ago, they demonstrate significant failures on the part of two individuals to provide truthful and accurate information to the NRC, the failures on the part of various managers to fully ascertain the validity of information submitted to NRC, and the failure of other managers to ensure important programs were adequately verified prior to fuel load.

The violations in the enclosed Notice have been separated into two categories to highlight our concerns. Section I describes two material false statement violations by individuals employed or formerly employed by your company. In these instances the individuals intentionally made inaccurate statements to NRC inspectors during the course of inspections. Section II describes violations of NRC requirements in which middle and high level managers failed to provide information concerning seismic design and embedment plate verification programs to the NRC.

Violation I.A was disclosed during an NRC security inspection conducted in November and December 1985. NRC inspectors determined that the Director of Nuclear Security (DNS) had instructed his staff to place safeguards information in a data processing computer system which was not secure. When questioned by the inspectors, he stated that he was unaware that the system had an offsite transmitting capability that made it unsuitable for storing safeguards information. It was later determined that the DNS had been previously informed both

in writing and orally by his staff that the data processing computer system was not secure and that the safeguards information should not be entered into it. These notifications took place within about two months before the information was placed into the system and before the DNS's intentional false statement to the inspector. One such notification was immediately before the information was entered into the system.

Violation I.B involved the unauthorized possession of safeguards information by a contractor employee at the Fermi plant. In April 1986, a contractor foreman presented a box containing safeguards information to the security department. Your investigation, as well as the NRC investigation, showed that the contractor had unauthorized possession of safeguards information from April through November 1985. Subsequent to November 1985, the individual was authorized to possess the information. During an NRC followup inspection in April 1986, the foreman signed a written statement reiterating that the safeguards information had been found in an unprotected, discarded file cabinet. We have concluded that the statement made by the individual to the NRC inspector was a deliberate material false statement.

Because the individual involved in Violation I.A made a deliberate material false statement to an NRC inspector and is still employed by DECo, the NRC has issued the enclosed Order requiring Detroit Edison Company to notify the NRC should that individual again become involved in safety-related activities at the Fermi facility. An Order is not being issued to address the individual in Violation I.B because that individual was a low level contractor employee who was terminated by DECo a number of years ago.

Violation II.A involved the Seismic Qualification Program. Beginning in January 1985 and continuing through October 1985, officials in your company became aware of a number of occurrences that indicated a procedural breakdown in the nuclear engineering seismic qualification design program. These included: (1) three Deviation Event Reports addressing a potential seismic program deficiency; (2) two quality assurance audits that were critical of the Fermi seismic review procedures; (3) complaints by two seismic engineers who questioned the existence of a functional seismic qualification program within nuclear engineering at Fermi and raised this concern to their management and other Fermi officials; (4) requests by one of these engineers that certain past plant modifications be given seismic reviews; and (5) a Safeteam investigation regarding these requested seismic reviews. Although the plant was granted an operating license in July 1985 and was scheduled for restart in December 1985, your officials failed to recognize the significance of the seismic qualification design problem and its potential impact on NRC's decision to approve the scheduled restart in late 1985, and they failed to act in a timely manner to correct these problems and report them to the NRC.

Violation II.B concerned your verification of embedment plate design. In March 1984, Sargent and Lundy recommended that you complete an embedment plate design verification prior to fuel load to comply with the regulatory requirement relating to design control, and some DECo engineering supervisors concurred in that recommendation. Despite the recommendation, DECo verified only a sample of the embedment plates.

Although this issue would have been important to the NRC licensing decision, DECo construction managers never raised this issue with the NRC and they later relied on the sample to delay verification of all plates until sometime after fuel load. On March 9, 1985, you submitted a Request for Operating License stating that Fermi design and construction were complete pursuant to the NRC regulations. On March 20 and July 15, 1985, the Commission issued fuel load and full power licenses, respectively, to you for Fermi. On January 3, 1986, five months after Fermi received its full power license, you submitted a Licensee Event Report notifying the NRC of potential overload stresses of several embedment plates in safety-related systems. Based on your earlier certification, the NRC believed that all necessary analyses had been performed prior to the request for license and issued the license on that basis. Your failure to adequately verify the design before the full power license constitutes a significant violation of Commission requirements. DECo has since reanalyzed the embedment plate loads and S&L refined its calculations, ultimately finding the loads to be within acceptable tolerances.

We are also concerned with the November 26, 1984 certification by your Vice President for Nuclear Operations which certified the accuracy of the Fermi 2 Technical Specifications. Subsequently, it was determined that DECo failed to verify the accuracy of plant Technical Specifications and many inaccuracies were identified in the specifications, contrary to the certification by DECo that they were consistent with the FSAR and the as-built plant design. That certification was provided without sufficient assessment of the accuracy of the specifications. It was only fortuitous that no safety problems resulted from the operation of Fermi with inaccurate technical specifications. This failure apparently resulted from a lack of management attention to assure the accuracy of the information. Since we have not concluded that the submittal was made in careless disregard for its accuracy, a citation is not being made for this submittal.

We recognize that most of the individuals involved in the violations described in the Notice are no longer employed in the Fermi nuclear program. We also believe that recent communications between your current management team and the NRC have been candid and complete. Notwithstanding those facts, the types of violations described in Sections I and II, the inadequate certification of your Technical Specifications, and the management systems that allowed them to occur are intolerable in the nuclear power industry. Our regulatory process depends heavily on the truthfulness and completeness of licensee communications with the NRC. We acknowledge that you have since implemented an aggressive self review program to ensure that regulations are being followed.

In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Action," 10 CFR Part 2, Appendix C (Enforcement Policy), Violation I.A has been categorized at Severity Level II, Violation I.B has been categorized at Severity Level III, and the violations described in Section II have been collectively categorized as a Severity Level III problem. While these violations could merit a civil penalty, after consultation with the Commission, a civil penalty will not be assessed in view of the circumstances of this case including the age of the violations. In reaching this decision, consideration was given

to, among other things, the \$300,000 civil penalty assessed in 1986, associated with communication failures at the time of full power licensing, which appeared effective in causing the company to improve communication with the NRC.

You are required to respond to this letter and should follow the instructions specified in the enclosed Notice when preparing your response. In your response, you should document the specific actions taken and any additional actions you plan to prevent recurrence. You should specifically address actions you have taken to insure the corporate atmosphere is one that supports candid and complete communications with the NRC.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter and its enclosure will be placed in the NRC Public Document Room.

The responses directed by this letter and the enclosed Notice are not subject to the clearance procedures of the Office of Management and Budget, as required by the Paperwork Reduction Act of 1980, Pub. L., No. 96-511.

Sincerely,



Hugh L. Thompson, Jr.
Deputy Executive Director for Nuclear
Materials Safety, Safeguards, and
Operations Support

Enclosures:

1. Order Modifying License
2. Notice of Violation