

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

ATOMIC SAFETY AND LICENSING APPEAL BOARD

82 NOV 12 P1:49

Administrative Judges:

Stephen F. Eilperin, Chairman  
Thomas S. Moore  
Dr. Reginald L. Gotchy

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

SERVED NOV 12 1982

\_\_\_\_\_  
In the Matter of )

THE DETROIT EDISON COMPANY )

(Enrico Fermi Atomic Power Plant, )  
Unit 2) )

) Docket No. 50-341 OL

Harry H. Voigt and L. Charles Landgraf, Washington,  
D.C., for the applicant, Detroit Edison Company, et al.

John R. Minock, Ann Arbor, Michigan, for the intervenor  
Citizens for Employment and Energy.

Colleen P. Woodhead and Daniel T. Swanson for the  
Nuclear Regulatory Commission staff.

ORDER TO SHOW CAUSE

November 12, 1982

On November 8, 1982 intervenors, Citizens for  
Employment and Energy (CEE) filed exceptions to the  
Licensing Board's October 29, 1982 initial decision  
which authorized the issuance of a full power operating  
license for the Enrico Fermi Atomic Power Plant, Unit 2.  
CEE did not, however, file proposed findings of fact or

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conclusions of law with the Licensing Board, and its failure to do so was apparently intentional.<sup>1/</sup>

It is a settled principle in Nuclear Regulatory Commission licensing proceedings that a party's appeal must relate to matters raised in its proposed findings of fact and conclusions of law. This is because we will not entertain arguments that a licensing board had no opportunity to address and that are raised for the first time on appeal, absent a compelling reason to do so. Pennsylvania Power & Light Co. (Susquehanna Steam Electric Station, Units 1 and 2), ALAB-693, 16 NRC \_\_\_ (September 28, 1982) (slip opinion at 5); Public Service Electric and Gas Co. (Salem Nuclear Generating Station, Unit 1), ALAB-650, 14 NRC 43, 49 (1981).

In view of the foregoing it is:

ORDERED that CEE show cause why its appeal from the Licensing Board's October 29, 1982 initial decision should not forthwith be dismissed. CEE's response shall be in our hands by November 24, 1982. The responses of the applicant and NRC staff shall be delivered to us by December 3 and

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<sup>1/</sup> CEE wrote the Licensing Board that "[a]fter careful consideration CEE, the intervenor in this matter, has reached a decision that it will not submit proposed findings of fact and conclusions of law to this panel." Letter of May 28, 1982.

December 10, 1982, respectively.

The time for filing briefs is tolled pending our disposition of this issue.

It is so ORDERED.

FOR THE APPEAL BOARD

*Barbara A. Tompkins*  
Barbara A. Tompkins  
Secretary to the  
Appeal Board