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JOHN R. MINOCK, Esq.
305 Mapleridge
Ann Arbor, Michigan 48103

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November 26, 1982

Stephen Eilperin, Esq.
Thomas S. Moore, Esq.
Dr. Reginald L. Gotchy
Atomic Safety and Licensing Appeal Board
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

re: In Re Detroit Edison Co.
Docket No. 50-341

Dear Sirs:

Today I received from Detroit Edison's Washington counsel a copy of a letter to you and Edison's Brief in Opposition to Appeal. In the letter you are advised that the Staff has decided that Monroe County's letter of November 8, 1982, will be treated as an appeal under 10 CFR 2.714a rather than under 2.762.

This is certainly news to me. I was unaware that the Staff had the authority to decide issues for the Appeal Board. The question of which section governs the County's appeal is confusing because the two sections are somewhat contradictory. 2.714a seems to set up an accelerated interlocutory appeal where a party has been denied intervenor status in order to not delay the licensing hearing. Here the denial came as part of the Initial Decision, wherein the panel advised all parties of the time limits of 2.762 in which to take an appeal.

Furthermore, CEE responded to the County's letter as though it were a Motion for Extension of Time (see CEE Answer mailed November 21, 1982), because that appeared to be the relief the County was requesting. CEE definitely intends to file a timely answer on the merits of the County's appeal as soon as it is clear which section governs. CEE's Answer of November 21, 1982 requested such direction from the Appeal Board because of the possible running of time limits. For example, if the County's appeal is under 2.714a, then Edison's Brief in Answer is untimely. On the other hand, if it is under 2.762, then the time for filing briefs appears to have been tolled pending resolution of the Appeal Board's November 12, 1982, Order to Show Cause.

For whatever reason, the Staff saw fit to notify Edison's Washington counsel, but not CEE, of how the County's letter was being treated. The manner in which

Atomic Safety and Licensing Appeal Board
re: The Detroit Edison Company (Fermi II)

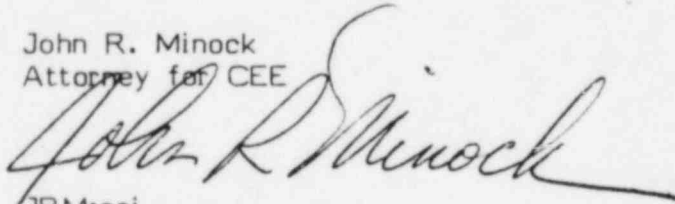
November 26, 1982
Page Two

Edison and the Staff are treating the County's letter do not take into account either the County's request for more time, the confusion between 2.714a and 2.762, or whatever rights the County may still have under 2.715(c). Common sense would seem to dictate that 2.762 should apply so that the parties and the Appeal Board have but one appeal to address, and because the issues here are all contained in the Initial Decision.

Please advise me as soon as possible so that CEE can reply to these issues in a timely manner.

Yours truly,

John R. Minock
Attorney for CEE



JRM:eei

cc: Paul Braunlich, Esq.
Harry Voight, Esq.
Colleen Woodhead, Esq.