

JUN 15 1984

Docket No.: 50-341

Mr. L. L. Kammerzell
Vice President
CYGNA Energy Services
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San Francisco, CA 94111

Dr. Wayne Jens
Vice President - Nuclear Operations
The Detroit Edison Company
2000 Second Avenue
Detroit, Michigan 48226

Dear Messrs. Kammerzell & Jens:

Subject: Protocol Governing the Independent Design Verification Program (IDVP) being conducted by CYGNA for the Fermi-2 Facility

In our letter of March 27, 1984, we enclosed a protocol (Enclosure 5) to both CYGNA Energy Services and the Detroit Edison Company (DECo) to be used to govern communications between CYGNA and DECo. This protocol was identical to that which we had formulated on the Comanche Peak docket (Docket No. 50-445). After further consideration of this particular protocol and based partially on our review of the conduct of the Independent Assessment Program (IAP) performed by CYGNA on the Comanche Peak facility, we prepared a new statement of protocol for the Comanche Peak IAP which we issued on May 31, 1984. This new protocol more completely addresses the variety of communications which occur during the course of an independent review.

We have concluded that it is entirely appropriate to apply this revised and updated protocol to the Fermi-2 IDVP. Accordingly, we now require CYGNA and DECo to follow this revised protocol which is enclosed with this letter. Clearly, those portions of the enclosed protocol which apply to a contested hearing do not apply to the conduct of the Fermi-2 IDVP. Further, to the extent that CYGNA has completed the "Information Gathering" stage, that portion of the protocol would also not apply. However, should we choose to require additional independent review work, the full protocol should be followed except for that portion applicable to a contested hearing. If you have any questions on this matter, please contact the Fermi-2 Project Manager at 301-492-7050.

Sincerely,

B. J. Youngblood, Chief
Licensing Branch No. 1
Division of Licensing

Enclosure:
As stated

cc: See next page

CONCURRENCES:

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ENCLOSURE

PROTOCOL GOVERNING COMMUNICATIONS BETWEEN THE DETROIT EDISON COMPANY AND CYGNA ENERGY SERVICES FOR THE INDEPENDENT DESIGN VERIFICATION PROGRAM FOR FERMI-2

PURPOSE

The purpose of an independent review is to obtain the independent technical assessment of the independent reviewer with respect to the subjects covered by the independent review program. In this connection every reasonable effort should be directed toward assuring that the observations and conclusions of the independent reviewer are the result of its own independent technical assessment and not influenced or biased by representations of other parties such as the applicant, its employees or contractors, NRC staff members, or other persons associated with ongoing licensing proceedings. Thus, any factual information obtained from others not independently verified by the independent reviewer should be carefully documented and specifically identified as such. In addition, to the extent that the independent reviewer is attempting to ascertain actual design or construction practices, such as control, distribution and use of documentation, the independent reviewer should be careful not to affect these practices by pre-notification or otherwise.

The following guidelines are intended to accommodate the need to assure independence of the independent reviewer on the one hand, and, on the other hand, the legitimate need to assure an adequate efficient method for the independent reviewer to obtain information and for communication between the independent reviewer and the applicant and other parties. However, it is the responsibility of the independent reviewer to assure that these guidelines are implemented in a manner which assures an adequate independent review.

INFORMATION GATHERING

In obtaining initial information necessary to commence its review or carry out a specific review task, the independent reviewer has a clear need for prompt access to any data required to fulfill its independent review function. Although such communication should ordinarily be by written requests and written responses, this may not be efficient in all instances and the independent reviewer may initiate such communications with the applicant (or its contractors) as it deems necessary to facilitate the collection or clarification of information. Hand written requests for documents, telephone conversations, face-to-face discussions, and meetings and visits to the site and offices of the applicant (and its contractors) may be utilized by the independent reviewer to obtain necessary information. All such requests for information and responses thereto shall be documented, but documentation may follow a request or exchange of information otherwise made, provided it is done promptly. If the applicant seeks to obtain simple clarification (e.g., clarification of

illegible documents or typographical, clerical or similar questions) of information requested by the independent reviewer to provide the independent reviewer simple clarification or simple correction of information previously provided, such communication may be informal. However, such communication should be promptly documented thereafter.

Correspondence and other documentation of information exchanged between the independent reviewer and the applicant during the information gathering stage, will be kept on file until issuance of the full power license and completion of all proceeding relating to the issuance of the full power license, and this file shall be accessible to the NRC.*

DISCUSSION OF EVALUATION, OBSERVATIONS OR FINDINGS

At Request of Independent Reviewer

When the independent reviewer determines that it is necessary or desirable to have a substantive communication with the applicant (or its contractors) regarding its evaluation of information, observations or findings of its review, such communication should ordinarily be by letter or by meeting but it may also be accomplished by telephone. If by telephone, a representative of the Division of Licensing shall be notified, in advance if practicable, and have the option of being included as a third party.** In addition, a brief written summary should be prepared by the independent reviewer and sent to the Director, NRC Division of Licensing,*** describing in sufficiently comprehensive form, the nature and content of the communication. If by letter, the Director of Licensing,*** should be provided a copy. Any exchange of drafts of letters or documents shall be treated in the same manner.

*/ In contested cases (in which the independent review may be relevant to matters in issue) the presiding Atomic Safety and Licensing Board may require exchange of such information with other parties or access to such information to other parties. In addition in some cases, including contested cases, where it is important to expedite NRC staff review, and any potential litigation involving the independent review program, arrangements should be provided to expedite access to such documentation to NRC and other parties and to provide for communication by meeting with all parties present or telephone conference with the opportunity for all parties to be joined.

**/ In contested cases the independent reviewer shall also offer the opportunity to participate to all parties to the proceeding, with notice in advance if practicable.

***/ In contested cases copies of correspondence and notices should be provided to all parties to the proceeding.

If such communication is by meeting,* all parties should be provided the opportunity to participate. The independent reviewer should provide as much advance notice to the Division of Licensing** as can be given consistent with its need to perform the review in a timely fashion; no express amount of advance notice is required and the inability of any other participant to attend such meeting is not a basis for delay. Nonetheless, a good faith effort should be made to provide notice and accommodate all participants. If the independent reviewer is unable to provide five days advance notice by mail, it will notify the Division of Licensing and the representatives of other parties, by phone. The Division of Licensing may request that the meeting be transcribed. Unless transcribed, the information obtained at meetings should be documented.

At Request of Applicant

The applicant has a significant need for timely access to the results of the program. To the extent the applicant desires communications with the independent reviewer beyond that described above and beyond simple clarification of information provided by the independent reviewer, the applicant should accomplish such communication either in writing or by arranging a meeting with the independent reviewer.** The independent reviewers' response to a written request for information should be in writing.*** If a meeting is requested by the applicant, the independent reviewer should, if it determines such meeting to be warranted, follow the arrangements discussed above. If the applicant seeks simple clarification of information provided by the independent reviewer (e.g., clarification of illegible materials or typographical, or similar clerical questions), such communication may be informal. However, such communication should be documented promptly thereafter.**

At Request of Other Parties

To the extent that any other party to the licensing proceeding may desire to have communications with the independent reviewer for the purpose of obtaining clarification of the independent reviewer's findings or observations or the basis therefor, the same procedure described above with respect to the applicant will be followed. In any event, the determination as to whether to hold a meeting with either the applicant or the intervenors will be within the independent reviewers sole discretion. To facilitate resolution of requests for clarification, the independent reviewer should identify a single point of contact (with a backup) with whom all participants can communicate either by phone or in writing.

*/ For meetings held during site visits, opportunity to participate in the site visit should be provided. Separate notice and opportunity to participate should be provided for meetings occurring during the site visit involving discussions of CYGNA findings or observations.

**/ In contested cases copies of correspondence and notices should be provided to all parties to the proceeding.

NRC STAFF COMMUNICATIONS WITH INDEPENDENT REVIEWER

The NRC Staff may require direct access to the independent reviewer. Ordinarily such staff communications with the independent reviewer will be by meeting with notice to all parties, by letter with copies to all parties or by telephone conference call with opportunity for all parties to be joined. In any instance of telephone call to the independent reviewer or meeting with the independent reviewer to discuss the independent review for which the staff does not give prior notice to the parties, the staff will prepare a brief written summary describing the nature and content of the communication. A copy of such summary will be provided to all parties.

Meetings between the staff and the independent reviewer regarding substantive findings will follow the staff's general meeting policy with as much advance notice as can be provided consistent with the staff's need to conduct its review on a timely basis.

FINANCIAL OR ADMINISTRATIVE MATTERS

Communications between the applicant and the independent reviewer solely with respect to the financial and administrative aspects of the independent reviewer contract are outside the scope of this protocol.