December 15, 1999

EA 99-185
EA 99-296

Mr. D. R. Gipson
Senior Vice President
Nuclear Generation
The Detroit Edison Company
6400 North Dixie Highway
Newport, MI 48166

SUBJECT: RESPONSE TO NOTICE OF VIOLATION (FERMI INSPECTION REPORT 50-341/99010(DRP))

Dear Mr. Gipson:

This letter acknowledges the receipt of Detroit Edison Company's (DECO) letter dated October 12, 1999, in response to our letter dated August 10, 1999, transmitting a Notice of Violation identified during a routine resident inspection at the Fermi 2 Nuclear Plant. In your letter, DECO contested the violation, stating that the violation represents a new interpretation of the pertinent Technical Specification and may constitute a backfit; and recommended clarification of some statements in the related inspection report.

The violation involved the concurrent inoperability of a Division 1 Emergency Diesel Generator (EDG) and the Division 2 standby liquid control (SLC) system pump and explosive (or squib) valve. You stated that the reason for contesting the violation was that you disagreed with the NRC interpretation that "Technical Specification (TS) 3.8.1.1, Action c, addresses all systems/components covered by the TSs without regard to whether or not they were credited in the mitigation of a Design Basis Accident." You further stated that TSs do not specifically define the term "required systems" as they do other important terms.

The NRC staff reviewed your basis for contesting the violation and determined that the subject Notice of Violation was valid. The staff's decision was based on the following information. The TSs are comprised of Limiting Conditions for Operation (LCOs) and associated Conditions and Required Actions. The regulation at 10 CFR 50.36(c)(ii)(B)(2) states that LCOs are the lowest functional capability or performance levels of equipment required (emphasis added) for safe operation of the facility. Stated differently, all equipment addressed in the LCOs is required for safe operation of the facility. The term "required" is, in the NRC staff's view, clearly articulated in the regulations. There is no need for a detailed definition of the term. The regulation 10 CFR 50.36(b) also states that, in addition to TSs derived from the analysis and evaluation included in the safety analysis report, the Commission may include such additional TSs as the Commission finds appropriate. It is the NRC staff's view that the regulations clearly indicate that any equipment addressed in TSs is required, regardless of whether or not it is addressed in the safety analysis. The SLC system is, therefore, a required system.

You quoted the Bases for TS 3.8.1.1 in your October 12, 1999, letter, indicating that the power sources:

> supply the safety-related equipment required for: (1) the safe shutdown of the facility, and (2) the mitigation and control of accident conditions within the facility.

With regard to the TS Bases reference to safety-related equipment, this is part of a general statement of the purpose of the power systems and does not exclude other systems that may be required to be powered from these same systems. In addition, the staff notes that the SLC system is included as a safe shutdown system in Section 7.4 of the Fermi 2 Updated Safety Analysis Report (UFSAR). In Section 7.4.1.2.1.2, "Classification," the UFSAR states that:

> The SLC system has been reclassified to identify that it was not originally intended, procured, designed, or classified as safety-related, but it will be maintained and tested as a safety-related system after completion of its preoperational tests.

In addition, the NRC staff notes that the TSs use the term "required" in various locations (e.g., TS Surveillance Requirement 4.4.1.2; TS 3.4.2.2, "Safety/Relief Valves Low-Low Set Function," Actions a and b; TS 3.5.1, "ECCS - Operating," Action d; and TS 3.7.2, "Control Room Emergency Filtration System," Actions b and c). Although the term "required" is used most commonly to refer to equipment required by the same specification within which the term appears, it can be used to refer to equipment required by other specifications. An example of this (other than TS 3.8.1.1) is TS 3.7.1.2, "Emergency Equipment Cooling Water System," Action a.1.a). Note that the SLC system is not supported by the emergency equipment cooling water system and so is not affected by TS 3.7.1.2.

You also indicated that Task Interface Agreement (TIA) 95-002, dated July 7, 1995, (the response was actually dated July 14, 1995), conflicts with the position that TS 3.8.1.1, Action c, applies to the SLC system. The staff disagrees. Task Interface Agreement 95-002 addressed a pump that only receives power from a normal power supply (i.e., it does not have a backup or emergency power supply). The response to TIA 95-002 indicated that this pump (which had no safety function) did not require an emergency power supply in order to be considered operable. In relation to this issue, the staff considered whether the SLC system must be powered from the EDG buses. The statements of consideration for the anticipated transient without scram rule (49 *FR* 26035, June 26, 1984) state that the equipment required by the rule does not have to be on a Class 1E power supply. However, the equipment does have to be capable of performing its safety function following a loss of offsite power. For components like the SLC system pumps, the net effect is that the pumps must be powered from buses with EDGs as a source of emergency power. As such, TS 3.8.1.1, Action c, applies to the SLC system as it does to all equipment that is required to have emergency power as part of its design.

You also stated that TS 3.8.1.1, Action c, addresses 10 CFR 50.36(c)(2)(ii) Criterion 3 systems and not Criterion 4 systems. The SLC system is included in the TSs under Criterion 4. The

NRC staff has clearly established and maintained the position that the SLC system is a critical system. Criterion 4 was established to ensure critical systems that were not covered by Criteria 1 through 3 were retained in the TSs. Note that if both trains of the SLC system are inoperable, TS 3.1.5 requires restoration of at least one train to operable status within 8 hours or initiation of a plant shutdown. The short duration of this allowed outage time clearly indicates that the SLC system performs a critical function. There is no basis in the written record to support your position that the Criterion 4 systems are excluded from the requirements of TS 3.8.1.1, Action c.

The staff has therefore shown that applying TS 3.8.1.1, Action c, to the SLC system is not a new staff position. Since there is no new staff position, there is no backfit. However, if you so choose, you have the option to pursue the backfit claim with the NRC staff.

In your October 12, 1999, letter, you also raised a concern about the applicability of TS 3.8.1.1, Action c, to other systems and components. Though the staff determined that TS 3.8.1.1, Action c, applies to the SLC system, we would encourage future dialogue to discuss your understanding, as well as the industry's perspective regarding the application of this TS action requirement to other systems.

Your response also referred to statements made in the associated inspection report. The Notice of Violation stated that "the licensee failed to verify that components depending on the Division 1 Emergency diesel generator as a source of emergency power were operable." You claimed that this statement was misleading. We acknowledge that operators did conduct a review of components that depend on the Division 1 Emergency diesel generator as an emergency power source; however, operators did not include the SLC system in the review.

The Notice of Violation also stated that, "The concurrent inoperability of Division 2 Standby Liquid Control System B and Division 1 Emergency diesel generator lasted for approximately 32 hours until May 5, 1999, at 10:32 a.m., when Division 2 Standby Liquid Control System B was returned to service." You replied that the period of time when there was any question regarding the ability of the SLC B to perform its intended function was actually 16 hours, the period during which the supply breaker was open.

Per the control room logs, on May 3, at 6:30 p.m., the SLC B ignition continuity was lost and the operators declared SLC B inoperable and entered a 7-day LCO [LCO 99-0197] per TS 3.1.5, Action a. Emergency Diesel Generator 11 was declared inoperable for maintenance on May 4, 1999, at 3:00 a.m. On May 4, 1999, from 1:36 p.m. through 1:39 p.m., the SLC motor control center was deenergized for trouble-shooting activities. In addition, on May 4, 1999, at 6:35 p.m., operators turned off the power supply to SLC B for troubleshooting the ignition circuit. After 14 hours, on May 5, 1999, at 8:20 a.m., the inspectors identified the non-compliance with TS 3.8.1.1.c and 2 hours later the operators turned on the SLC B power source at 10:32 a.m. Per the control room logs, on May 5, 1999, at 10:32 a.m., LCO 99-0197 was revised to LCO 99-0197A to track repairs of the continuity circuit and that TS 3.8.1.1, Action c was exited. The inspectors considered the SLC inoperable until the operators declared SLC operable at 10:32 a.m. Therefore, no inspection report clarifications are required.

Finally, you addressed the cover letter statement that the "operators did not understand license requirements and placed the plant in a configuration where Emergency Diesel Generator 11 was removed from service and the opposite division Standby Liquid Control System B was inoperable." Your letter stated that Detroit Edison believes that the operators understood the license requirements and utilized their knowledge of system design and operating status to ensure that the SLC system would continue to be able to perform its intended function in the configuration in which it was placed. They took the added step of ensuring that this configuration was risk insignificant through the use of the Configuration Risk Management Program evaluation performed prior to the removal of EDG 11 from service.

The cover letter is accurate in that operators had placed the plant in a condition where SLC and an Emergency Diesel Generator were concurrently inoperable. The statement that operators did not understand license requirements is an inspector assessment supported by the sequence of events and reiteration of the staff position. However, we understand that a contributing factor to the operator's decisions regarding TS applicability to the configuration in question was the training that they had received previously. As you stated in your letter, operators utilized their knowledge of system design and operating status, however, the NRC staff does not agree that the training was consistent with TS requirements.

In your response letter you also expressed concerns regarding the timeliness and necessity of the Freedom of Information Act (FOIA) request for information related to a Task Interface Agreement (TIA). We understand that you did receive the information requested by the FOIA after some delay. The NRC staff will review your comments regarding your ability to access information documented in the TIA and the timeliness of our response to the FOIA request.

The NRC staff determined that TS 3.8.1.1, Action c, applies to the SLC system. Further, the NRC staff concludes that you inappropriately failed to implement TS 3.8.1.1, Action c, when both SLC system "B" and EDG 11 were inoperable on May 4 and 5, 1999.

In conclusion, we appreciate your comments and feedback regarding this issue; however, as delineated above, the NRC has concluded that the Notice of Violation (Notice) issued August 10, 1999, was valid. Because you contested the violation, your October 12, 1999, response to the Notice did not fully address the corrective steps taken or planned. Pursuant to 10 CFR 2.201, Detroit Edison Company is required to submit a written response to these items within 30 days of the date of this letter.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and your response to clarify your corrective actions will be placed in the NRC Public Document Room (PDR). Because your response will be placed in the NRC PDR, to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be placed in the PDR without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding.

As discussed during a conference call on December 15, 1999, we appreciate your comments and will gladly discuss any further questions you may have.

Sincerely,

Original /s/ James L. Caldwell

James L. Caldwell
Deputy Regional Administrator

Docket No. 50-341
License No. NPF-43

Enclosure: Ltr dtd 10/12/99 D. Gipson
Fermi 2 to USNRC

cc w/o encl: D. Gipson, Senior Vice President - Nuclear Generation
P. Fessler, Manager, Fermi 2

cc w/encl: N. Peterson, Director, Nuclear Licensing
P. Marquardt, Corporate Legal Department
Compliance Supervisor
R. Whale, Michigan Public Service Commission
D. Minnaar, Michigan Department of
Environmental Quality
Michigan Department of Environmental Quality
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As discussed during a conference call on (Date), we appreciate your comments and will gladly discuss any further questions you may have.

Sincerely,

James L. Caldwell
Deputy Regional Administrator

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