

**UNITED STATES OF AMERICA  
U.S. NUCLEAR REGULATORY COMMISSION**

**BEFORE THE ATOMIC SAFETY AND LICENSING BOARD**

In the Matter of

) Docket No. 52-033-COL  
)  
THE DETROIT EDISON COMPANY )  
(Fermi Nuclear Power Plant, Unit 3) )  
)

**MOTION FOR LEAVE TO SUPPLEMENT BASIS OF CONTENTION  
REGARDING NEPA REQUIREMENT TO ADDRESS SAFETY  
AND ENVIRONMENTAL IMPLICATIONS OF  
THE FUKUSHIMA TASK FORCE REPORT**

Pursuant to 10 C.F.R. § 2.323, Now come Intervenors Beyond Nuclear, Citizens for Alternatives to Chemical Contamination, Citizens Environment Alliance of Southwestern Ontario, Don't Waste Michigan, Sierra Club (Michigan Chapter), Keith Gunter, Edward McArdle, Henry Newnan, Derek Coronado, Sandra Bihn, Michael J. Keegan, Richard Coronado, George Steinman, Marilyn R. Timmer, Leonard Mandeville, Frank Mantei, Marcee Meyers, and Shirley Steinman (hereinafter "Intervenors"). Intervenors hereby move for leave to supplement the basis for their contention seeking consideration of the environmental implications of the Fukushima Task Force Report in the licensing decision for the proposed Fermi Nuclear Power Plant, Unit 3 reactor. Intervenors request the Atomic Safety and Licensing Board ("ASLB") to consider the recent issuance of a directive by the Commissioners of the U.S. Nuclear Regulatory Commission ("NRC") to the NRC Staff, which requires the Staff to "strive to complete and implement the lessons learned from the Fukushima accident within five years – by 2016."

SRM/SECY-11-0124, Memorandum from R.W. Borchardt, Executive Director for Operations to Annette L. Vietti-Cook, Secretary, re: Recommended Actions to be Taken Without Delay from the Near-Term Task Force Report (Oct. 18, 2011). SRM/SECY-11-0124 provides further support, (see NRC website at: <http://www.nrc.gov/reading-rm/doc-collections/commission/srm/2011/2011-0124srm.pdf>.) in addition to the language of the Task Force Report itself and the Declaration of Dr. Arjun Makhijani, for Intervenors' contention that the information set forth in the Task Force Report must be considered before issuance of a Combined License for the proposed Fermi Nuclear Power Plant, Unit 3 reactor. By ordering the Staff to adopt and implement numerous Task Force recommendations, including redefining what level of protection of public health and safety should be regarded as adequate, the Commission makes clear that it believes the lessons learned from the Fukushima accident have safety and environmental significance. See SRM/SECY-11-0124 at 2.

Intervenors note that the issuance of SRM/SECY-11-0124 also undermines the basis for a recent licensing board decision finding that contentions similar to Intervenors' contention were premature because the Commission itself had not yet accepted or implemented the Task Force Report's conclusions and recommendations. PPL Bell Bend, L.L.C. (Bell Bend Nuclear Power Plant); Luminant Generation Co., L.L.C. (Comanche Peak Nuclear Power Plant, Units 3 and 4); Energy Northwest (Columbia Generating Station); Southern Nuclear Operating Co. (Vogtle Electric Generating Plants, Units 3 and 4); Duke Energy Carolinas, L.L.C. (William States Lee Nuclear Station, Units 1 and 2), LBP-11-27, \_\_\_ NRC \_\_\_, slip op. at 16 (Oct. 18, 2011) (citing Union Electric Co. d/b/a Ameren Missouri (Callaway Plant, Unit 2), et al., CLI-11-05, \_\_\_ NRC \_\_\_ (Sept. 9, 2011)).

**CONSULTATION CERTIFICATE PURSUANT TO 10 C.F.R. § 2.323(b)**

Intervenors certify that on October 26, 2011, we contacted counsel for the applicant (The Detroit Edison Company) and the NRC Staff in an attempt to obtain their consent to this Motion. Counsel for the applicant responded with no objection to you making a filing, but reserves the right to respond to filing on its merits, once seen by them. While the NRC Staff did not object to the filing of the Motion on procedural grounds, it reserved judgment on the Motion and will respond in due course.

Respectfully submitted this 28<sup>th</sup> day of October, 2011,

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October 28, 2011

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
Before the Atomic Safety and Licensing Board**

In the Matter of ) Docket No. 52-033  
The Detroit Edison Company )  
(Fermi Nuclear Power Plant, Unit 3) )  
 )  
 )

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing “MOTION FOR LEAVE TO SUPPLEMENT BASIS OF CONTENTION REGARDING NEPA REQUIREMENT TO ADDRESS SAFETY AND ENVIRONMENTAL IMPLICATIONS OF THE FUKUSHIMA TASK FORCE REPORT” have been served on the following persons via Electronic Information Exchange this 28<sup>th</sup> day of October, 2011:

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