

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Ronald M. Spritzer, Chairman
Dr. Anthony J. Baratta
Dr. Randall J. Charbeneau

In the Matter of

DETROIT EDISON COMPANY

(Fermi Nuclear Power Plant, Unit 3)

Docket No. 52-033-COL

ASLBP No. 09-880-05-COL-BD01

June 21, 2012

ORDER

(Denying Intervenors' Motion to Supplement)

On May 17, 2012, Intervenors submitted a response¹ to Applicant's Motion for Summary Disposition of Contention 15.² Concurrently, Intervenors moved to supplement their response with additional information and argument to be provided by July 31.³ Intervenors allege that more time is needed because (1) Applicant has abused the proprietary privilege in withholding documents from disclosure, complicating Intervenors' attempts to prepare their response, and (2) they continue to have limited access to their expert witness, Arnold Gunderson.⁴

Intervenors previously requested a 10-day extension of time to respond to Applicant's Motion.⁵ Intervenors justified that request based on the limited availability of Mr. Gunderson, but

¹ Intervenors' Response in Opposition to Applicant's Motion for Summary Disposition of Contention 15 (May 17, 2012).

² Applicant's Motion for Summary Disposition of Contention 15 (Apr. 17, 2012).

³ Intervenors' Motion to Supplement Response in Opposition to Applicant's Motion for Summary Disposition of Contention 15 (May 17, 2012).

⁴ Id. at 2, 4.

⁵ Intervenors' Motion for Enlargement of Time to Reply to Pending Motions for Summary Disposition (May 4, 2012).

stated that he had “promised unimpeded availability to assist Intervenors beginning on May 8.”⁶ Intervenors further explained that they initially intended to ask for 20 days of additional time, but, “following reconsideration,” they decided that “they will be able to respond in the shorter, ten-day, period contained in this request.”⁷ The Licensing Board, for good cause shown, granted the request and extended the deadline from May 7 to May 17, but stated that “[n]o further extensions will be granted absent extraordinary circumstances.”⁸

In the motion presently before the Board, Intervenors have not identified any extraordinary circumstance that would warrant an additional extension. Intervenors do not allege that any of the facts presented in their motion and the attached declaration were unknown to them at the time they requested the initial extension, and they provide no explanation for why they did not raise these concerns earlier or seek a longer extension in their first request. Accordingly, Intervenors’ motion is DENIED.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Ronald M. Spritzer, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
June 21, 2012

⁶ Id. at 2.

⁷ Id. at 3.

⁸ Licensing Board Order (Granting Intervenors’ Motion for Extension of Time) (May 9, 2012) at 1-2 (unpublished).

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)

DETROIT EDISON COMPANY)

(Fermi Nuclear Power Plant, Unit 3))

(Combined License))

Docket No. 52-033-COL

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER (DENYING INTERVENORS' MOTIONS TO SUPPLEMENT) been served upon the following persons by Electronic Information Exchange.

Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Ronald M. Spritzer, Chair
Administrative Judge
E-mail: Ronald.Spritzer@nrc.gov

Anthony J. Baratta
Administrative Judge
E-mail: Anthony.Baratta@nrc.gov

Randall J. Charbeneau
Administrative Judge
E-mail: Randall.Charbeneau@nrc.gov

Kirsten Stoddard, Law Clerk
E-mail: kirsten.stoddard@nrc.gov

James Maltese, Law Clerk
E-mail: james.maltese@nrc.gov

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: ocaamail@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop O-16C1
Washington, DC 20555-0001
Hearing Docket
E-mail: hearingdocket@nrc.gov

Detroit Edison Company
One Energy Plaza, 688 WCB
Detroit, Michigan 48226
Bruce R. Matters, Assistant General Counsel
E-mail: matersb@dteenergy.com

Erich Pica, President
Friends of the Earth
1100 15th Street, NW
11th Floor
Washington, D.C. 20555
mkeever@foe.org

Docket No. 52-033-COL
ORDER (DENYING INTERVENORS' MOTIONS TO SUPPLEMENT)

Winston & Strawn, LLP
1700 K Street, NW
Washington, DC 20006-3817
Counsel for the Applicant
David Repka, Esq.
Rachel Miras-Wilson, Esq.
Tyson R. Smith, Esq.
Carlos L. Sisco, Senior Paralegal

E-mail:

drepka@winston.com
trsmith@winston.com
rwilson@winston.com
CSisco@winston.com

Pillsbury Winthrop Shaw Pittman, LLP
2300 N Street, NW
Washington, DC 20037-1122
Counsel for Progress Energy
Robert Haemer, Esq.
E-mail: robert.haemer@pillsburylaw.com

Beyond Nuclear, Citizens for Alternatives to
Chemical Contamination, Citizens
Environmental, Alliance of Southwestern
Ontario, Don't Waste Michigan, Sierra Club
et al.
316 N. Michigan Street, Suite 520
Toledo, OH 43604-5627
Terry J. Lodge, Esq.
Michael J. Keegan, Esq.
E-mail: tjlodge50@yahoo.com
E-mail: mkeeganj@comcast.net

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop O-15D21
Washington, DC 20555-0001
Marcia Carpentier, Esq.
Sara Kirkwood, Esq.
Robert M. Weisman, Esq.
Anthony Wilson, Esq.
Andrea Silvia, Esq.
Patrick Moulding, Esq.
Susan Vrahoretis, Esq.
Michael Spencer, Esq.
Jessica Bielecki, Esq.
Myrisha Lewis, Esq.
Karin Francis, Paralegal
marcia.carpentier@nrc.gov
sara.kirkwood@nrc.gov
robert.weisman@nrc.gov
anthony.wilson@nrc.gov
andrea.silvia@nrc.gov
Patrick.Moulding@nrc.gov
susan.vrahoretis@nrc.gov
michael.spencer@nrc.gov
jab2@nrc.gov
myrisha.lewis@nrc.gov
karin.francis@nrc.gov
OGC Mail Center : OGCMailCenter@nrc.gov

Beyond Nuclear
Reactor Oversight Project
6930 Carroll Avenue Suite 400
Takoma Park, MD 20912
Paul Gunter, Director
E-mail: paul@beyondnuclear.org

[Original signed by Evangeline S. Ngbea]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 21st day of June 2012