

**NUCLEAR REGULATORY COMMISSION**

**[Docket No. M-52-033-COL; NRC-2008-0566]**

**In the Matter of DTE Electric Company, Combined License for Enrico Fermi Unit 3**

**Notice of Hearing**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of hearing.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC or the Commission) will convene an evidentiary session to receive testimony and exhibits in the uncontested portion of this proceeding regarding the application of DTE Electric Company for a combined license (COL) to construct and operate a new nuclear power generation facility at the Enrico Fermi Nuclear Plant Unit 3 (Fermi 3). This mandatory hearing will concern safety and environmental matters relating to the requested COL.

**DATES:** The hearing will be held on February 4, 2015, beginning at 8:30 a.m. Eastern Time. For the schedule for submitting pre-filed documents and deadlines affecting Interested Government Participants, see Section VI of the **SUPPLEMENTARY INFORMATION** section of this document.

**ADDRESSES:** Please refer to Docket ID M-52-033-COL when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available

information related to this document using any of the following methods:

- **NRC's Electronic Hearing Docket:**

You may obtain publicly available documents related to this hearing on line at

<http://www.nrc.gov/about-nrc/regulatory/adjudicatory.html> .

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may obtain publicly available documents online in the ADAMS Public Documents collection

at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public](#)

[Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS,

please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209,

301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each

document referenced in this document (if that document is available in ADAMS) is provided the

first time that a document is referenced.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852.

**FOR FURTHER INFORMATION CONTACT:** Glenn Ellmers, Office of the Secretary, U.S.

Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-0442;

e-mail: [Glenn.Ellmers@nrc.gov](mailto:Glenn.Ellmers@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. BACKGROUND**

The Commission hereby gives notice that, pursuant to Section 189a of the Atomic Energy Act of 1954, as amended (the Act), it will convene an evidentiary session to receive testimony and exhibits in the uncontested portion of this proceeding regarding DTE Electric

Company's September 18, 2008, application for a COL under part 52 of Title 10 of the *Code of Federal Regulations* (10 CFR) to construct and operate a new nuclear power generation facility at the Enrico Fermi Nuclear Plant Unit 3 site in Monroe County, Michigan (ADAMS Accession No. ML082630034). This mandatory hearing will concern safety and environmental matters relating to the requested COL, as more fully described below. Participants in the hearing are not to address any contested issues in their written filings or oral presentations.

## **II. EVIDENTIARY UNCONTESTED HEARING**

The Commission will conduct this hearing beginning at 8:30 a.m., Eastern Time on February 4, 2015, at the Commission's headquarters in Rockville, Maryland. The hearing will continue on subsequent days, if necessary.

## **III. PRESIDING OFFICER**

The Commission is the presiding officer for this proceeding.

## **IV. MATTERS TO BE CONSIDERED**

The matter at issue in this proceeding is whether the review of the application by the Commission's staff has been adequate to support the findings found in 10 CFR 52.97 and 10 CFR 51.107. Those findings are as follows:

### **Issues Pursuant to the Atomic Energy Act of 1954, as Amended**

With respect to the COL: (1) whether the applicable standards and requirements of the Act and the Commission's regulations have been met; (2) whether any required notifications to

other agencies or bodies have been duly made; (3) whether there is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of the Act, and the Commission's regulations; (4) whether the applicant is technically and financially qualified to engage in the activities authorized; and (5) whether issuance of the license will not be inimical to the common defense and security or the health and safety of the public.

### **Issues Pursuant to the National Environmental Policy Act (NEPA) of 1969**

With respect to the COL: (1) determine whether the requirements of Sections 102(2) (A), (C), and (E) of NEPA and the applicable regulations in 10 CFR part 51 have been met; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; (3) determine, after weighing the environmental, economic, technical, and other benefits against environmental and other costs, and considering reasonable alternatives, whether the combined license should be issued, denied, or appropriately conditioned to protect environmental values; and (4) determine whether the NEPA review conducted by the NRC staff has been adequate.

### **V. SCHEDULE FOR SUBMITTAL OF PRE-FILED DOCUMENTS**

No later than January 14, 2015, unless the Commission directs otherwise, the staff and the applicant shall submit a list of its anticipated witnesses for the hearing.

No later than January 14, 2015, unless the Commission directs otherwise, the applicant shall submit its pre-filed written testimony. The staff submitted its testimony on November 20, 2014.

The Commission may issue written questions to the applicant or the staff before the hearing. If such questions are issued, an order containing such questions will be issued no later than December 30, 2014. Responses to such questions are due January 14, 2015, unless the Commission directs otherwise.

## **VI. INTERESTED GOVERNMENT PARTICIPANTS**

No later than December 19, 2014, any interested U.S. State, local government body, federally-recognized Indian tribe, Canadian Province, local government body, or First Nation<sup>1</sup> may file with the Commission a statement of any issues or questions that the U.S. State, local government body, Indian tribe, Canadian Province, local government body, or First Nation wishes the Commission to give particular attention to as part of the uncontested hearing process. Such statement may be accompanied by any supporting documentation that the U.S. State, local government body, Indian tribe, Canadian Province, local government body, or First Nation sees fit to provide. Any statements and supporting documentation (if any) received by the Commission using the agency's E-filing system<sup>2</sup> by the deadline indicated above will be made part of the record of the proceeding. The Commission will use such statements and documents as appropriate to inform its pre-hearing questions to the staff and applicant, its inquiries at the oral hearing, and its decision following the hearing. The Commission may also

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<sup>1</sup> Due to the proximity of the Fermi 3 site to the Canadian border, the Commission is expanding the list of interested government participants to include Canadian Provinces, local governments, and First Nations in this proceeding.

<sup>2</sup> The process for accessing and using the agency's E-filing system is described in the March 17, 2009, notice of hearing that was issued by the Commission for this proceeding. See Notice of Hearing 74 FR 836. Participants who are unable to use the electronic information exchange (EIE), or who will have difficulty complying with EIE requirements in the time frame provided for submission of written statements, may provide their statements by electronic mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov).

request, on or about January 7, 2015, that one or more particular U.S. States, local government bodies, Indian tribes, Canadian Provinces, local government bodies, or First Nations send one representative each to the evidentiary hearing to answer Commission questions and/or make a statement for the purpose of assisting the Commission's exploration of one or more of the issues raised by the U.S. State, local government body, Indian tribe, Canadian Province, local government body, or First Nation in the pre-hearing filings described above. The decision whether to request the presence of a representative of a U.S. State, local government body, Indian tribe, Canadian Province, local government body, or First Nation at the evidentiary hearing to make a statement and/or answer Commission questions is solely at the Commission's discretion. The Commission's request will specify the issue or issues that each representative should be prepared to address.

U.S. States, local governments, Indian tribes, Canadian Provinces, local governments, and First Nations should be aware that this evidentiary hearing is separate and distinct from the NRC's contested hearing process. Issues within the scope of contentions that have been admitted or contested issues pending before the Atomic Safety and Licensing Board or the Commission in a contested proceeding for a COL application are outside the scope of the uncontested proceeding for that COL application. In addition, although U.S. States, local governments, Indian tribes, Canadian Provinces, local governments, or First Nations participating as described above may take any position they wish, or no position at all, with respect to issues regarding the COL application or the NRC staff's associated environmental review that do fall within the scope of the uncontested proceeding (i.e., issues that are not within the scope of admitted contentions or pending contested issues), they should be aware that many of the procedures and rights applicable to the NRC's contested hearing process due to the inherently adversarial nature of such proceedings are not available in the uncontested hearing. Participation in the NRC's contested hearing process is governed by 10 CFR 2.309

(for persons or entities, including U.S. States, local governments, Indian tribes, Canadian Provinces, local governments, or First Nations, seeking to file contentions of their own) and 10 CFR 2.315(c) (for interested U.S. States, local governments, Indian tribes, Canadian Provinces, local governments, or First Nations seeking to participate with respect to contentions filed by others). Participation in this uncontested hearing does not affect a U.S. State's, local government's, Indian tribe's, Canadian Province's, local government's, or First Nation's right to participate in the separate contested hearing process.

Dated at Rockville, Maryland, this 1st day of December, 2014.

For the Nuclear Regulatory Commission.

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Annette L. Vietti-Cook,  
Secretary of the Commission.