

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)

DTE ELECTRIC CO.)

(Fermi Nuclear Power Plant, Unit 3))

Docket No. 52-033-COL

SCHEDULING ORDER

On December 1, 2014, the Commission issued a notice that it would convene an evidentiary hearing at its Rockville, Maryland headquarters on February 4, 2015, pursuant to section 189a. of the Atomic Energy Act of 1954, as amended, to receive testimony and exhibits in the uncontested portion of the captioned proceeding.¹ Today's Scheduling Order, issued pursuant to my authority under 10 C.F.R. § 2.346(a), (d), and (j), provides details covering matters such as the identification and swearing-in of witnesses, the process for admitting evidence, and the format of presentations.

Identification of Witnesses. To expedite the proceeding, all witnesses will be identified and sworn in at the beginning of the hearing. As a result, all witnesses should be present in the hearing room at that time. Witnesses should remain available for the entirety of the hearing.

Presentation Slides. Sets of presentation slides for each panel shall be served using the agency's E-filing system (see 10 C.F.R. § 2.304(g)), and also shall be transmitted via electronic mail to hearingdocket@nrc.gov, no later than January 28, 2015.

¹ See In the Matter of DTE Electric Company, Combined License for Enrico Fermi Unit 3; Notice of Hearing, 79 Fed. Reg. 72,215 (Dec. 5, 2014).

Format and Time Allocations. The order of presentation panels and time allocations are reflected in the Scheduling Note for this proceeding, which will be transmitted separately.

Panelists should assume that the Commission is familiar with the content of their written testimony, including written responses to pre-hearing questions.

Admission of Evidence. Exhibits for this proceeding will be admitted after the witnesses are identified and sworn and before the panel presentations begin. To facilitate this process, no later than January 28, 2015, the NRC Staff and DTE Electric Company each shall provide to the Secretary a table listing all of the exhibits they intend to propose for admission into evidence at the hearing. The table should be formatted as follows:

Exhibit Number	Panel Number/ Sponsoring Witness(es)	Document Description/Title ²

² The parties should include an ADAMS accession number to the extent it is available for the document (or portion of the document) that will be proffered. For any exhibit having a confidential/sensitive status that would preclude public disclosure, the listing information should be set forth in **bold** type. DTE should provide an updated exhibit list in the above format. See *DTE Hearing Exhibits* (Jan. 14, 2015).

All exhibits should be pre-filed in accordance with the requirements of our E-Filing rules, at 10 C.F.R. § 2.304(g).³ The Staff should include the combined license application and all associated supplements to the application in its list of exhibits. Only one copy of each item of documentary material should be offered as evidence in connection with this mandatory hearing, so the parties should coordinate as necessary. Panel presentation slide sets should be included and identified as exhibits, and will be admitted into the record of the proceeding.

In the case of exhibits that are testimony, the sponsoring witness (or witnesses) shall provide a written certification, as part of the filing submitting the exhibit table, containing the following information: that the identified testimony was prepared by the witness (or under the witness's direction); that the written testimony is true and correct to the best of the witness's information, knowledge, and belief; and that the witness adopts the identified testimony as his sworn testimony in the proceeding.⁴

Exhibits will be admitted at the hearing based on the exhibit tables and associated certifications, as applicable; the list of exhibits and any certifications will not be read aloud at the hearing. However, the Applicant and the Staff will be offered the opportunity at the oral hearing to provide corrections, amendments, and additions to testimony or exhibits, or to object to the admission of particular exhibits, during the process of admitting exhibits. The exhibit tables and certifications will become part of the record of the proceeding.

³ Any pre-filed exhibit that contains confidential or sensitive information should be filed separately in the agency's E-Filing system using the "protective order" filing option and should include appropriate page markings.

⁴ This certification may be notarized, or may be submitted in the form of an unsworn declaration consistent with 28 U.S.C. § 1746.

Exhibits should be labeled and numbered consecutively, formatted as “NRC000001,” “NRC000002,” or “DTE000001,” “DTE000002,” etc.⁵ Exhibit numbers should be placed in the upper right hand corner of the first page of the exhibit. A separate cover sheet should be used for an exhibit only if there is no space on the first page of the exhibit into which the number can be legibly placed.⁶

⁵ Other than witness lists, any documents pre-filed in advance of this Scheduling Order should be re-filed as exhibits. For example, the Commission has received the parties’ responses to the Commission’s December 30, 2014, pre-hearing questions. DTE already numbered its responses as exhibits; the Staff should re-file its responses as exhibits in accordance with this Scheduling Order. See Ex. DTE000002, *Applicant’s Response to Public Commission Questions for Fermi Unit 3 Hearing on Uncontested Issues* (Jan. 14, 2015); Ex. DTE000003, *Applicant’s Response to Non-public Commission Question for Fermi Unit 3 Hearing on Uncontested Issues* (Jan. 14, 2015) (non-public); *NRC Staff Responses to Commission Pre-hearing Questions* (Jan. 14, 2015); *NRC Staff Responses to Non-public Commission Pre-hearing Question* (Jan. 14, 2015) (non-public).

Provided the exhibits are properly pre-filed using the agency’s E-Filing system, it should not be necessary for the parties to provide the Commission or counsel for the other party with any paper copies of their pre-filed evidentiary materials. Nonetheless, the parties should have available at the hearing one properly marked paper copy of each pre-filed document for use in the event that there are any operational issues. In addition, if a party must submit any new testimony or exhibits at the hearing, or revise any pre-filed testimony or exhibits at the hearing, that party must provide at that time a properly marked electronic copy of any such documents, along with enough properly marked paper copies of any such documents for distribution to counsel for the other party, all Commission members (two copies each), and the Secretary of the Commission (three copies).

⁶ If a party needs to provide a revised version of a previously pre-filed exhibit, the exhibit should be re-filed with a letter “R” in place of the first zero in the exhibit number (i.e., the fourth exhibit number character position), such that, for example, a revised version of Staff exhibit NRC000001 would be designated NRCR000001. If a second or subsequent revision is necessary, the exhibit should be re-filed with a sequential number in the place of the next zero in the exhibit number, e.g., NRCR200001. If a party finds that it needs to break a document into several segments to ensure it does not exceed the agency’s guidance on recommended file sizes for submissions (see NRC, *Guidance for Electronic Submissions to the NRC*, Rev. 6.1, at 15-16 (May 27, 2011) (ADAMS accession no. ML13031A056)) each of the segments should be labeled by placing an alpha designation next to the number of the exhibit (i.e., in the ninth exhibit number character position) in a way that will reflect the relationship of that part to the other parts of the document. For example, if a Staff exhibit that would otherwise have the number NRC000001 were submitted in three parts due to its file size, each portion would have a different exhibit number in the following sequence: NRC00001A, NRC00001B, and NRC00001C.

Post-hearing Responses to Follow-up Questions. If, at the hearing, Commissioners ask any questions that cannot be fully answered at the hearing itself, or expressly pose follow-up questions to be answered in writing, the Staff and the Applicant, as appropriate, may file supplemental responses to such questions no later than February 19, 2015, unless the Commission at the hearing sets a different deadline for such responses.

General Information. The Office of the Secretary of the Commission will contact the parties regarding logistics related to the February 4 hearing.

IT IS SO ORDERED.

For the Commission

NRC Seal

/RA/

Rochelle C. Bavor
Acting Secretary of the Commission

Dated at Rockville, Maryland,
this 21st day of January, 2015.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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(Fermi Nuclear Power Plant, Unit 3))	
Mandatory Hearing)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **SCHEDULING ORDER** have been served upon the following persons by Electronic Information Exchange.

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OGC Mail Center: Members of this office have received a copy of this filing by EIE service.

Fermi Nuclear Power Plant, Unit 3, Docket No. 52-033-COL (Mandatory Hearing)
SCHEDULING ORDER

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[Original signed by Clara Sola _____]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 21st day of January, 2015