

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

In the Matter of:)	Docket No. 50-341
The Detroit Edison Company (Fermi Nuclear Power Plant, Unit 2))	NRC 2014-0109
License Renewal Application)	February 23, 2015
)	
	;	
*	*	*

**INTERVENORS’ MEMORANDUM ON NON-AGREED MATTERS
 OF SCHEDULING AND MANDATORY DISCLOSURES**

Background

On February 23, 2015, pursuant to order of the Atomic Safety and Licensing Board, the parties submitted their “Joint Proposal on Scheduling and Joint Motion on Mandatory Disclosures,” by which fundamental procedures would be governed in this adjudicatory proceeding.

The purpose of this memorandum is to provide the Licensing Board with Intervenors’ views of the matters which remain in controversy.

***Disputed Time Frame for Amended or New Contentions
 Following FSER, FSEIS and Non-DSEIS Disclosures***

The disputes of scheduling are summarized in this paragraph of the joint filing:

However, the Applicant and the NRC Staff propose that the deadline for filing new or amended contentions based on the Final Supplemental Environmental Impact Statement, Final Safety Evaluation Report, and any other document besides the Draft Supplemental Environmental Impact Statement and Safety Evaluation Report with open items be 30 days after availability of the document. The Applicant and NRC Staff believe that 30 days is sufficient to review and formulate contentions on final Staff documents because the parties would have already reviewed them in draft form.

Intervenors request that the schedule terms allow sixty (60) and not merely thirty (30) days for filing new or amended contentions following issuance of the FSEIS, FSER and any other document besides the Draft SEIS. Thirty days is not sufficient for a number of reasons. Intervenors may have to identify and consult experts for interpretative information, or to secure commitments for experts to formally associate as a witness for them. The issues that may appear in public domain documents often are cross-indexed to reports, other substantive correspondence, or studies which must be found, reviewed, with determinations as to relevance and importance to a central potential contention. This weeding-out process, even if promptly commenced, can span weeks.

Respecting the timing following issuance of the Final SEIS, the responses to public comments can be complex and require interpretation. Given the difficult burden when offering EIS-related contentions (*viz.*, distinctions between earlier and later versions), nuanced points which may require identification of evidence which has become available since the Draft SEIS issuance may have to be considered. Again, it is possible that one or more experts may need to be consulted, often a process involving some weeks.

The same arguments hold true for allowing a sixty-day period following issuance of the Final Safety Evaluation Report. To controvert safety and technical engineering or scientific matters covered by the FSER, it is not mere conjecture that Intervenors may need expert consultation.

The larger issue is this: the twenty-year renewal period for Fermi 2 does not commence until 2025. DTE Energy has applied more than a decade in advance. There is significant time for all the adjudicatory milestones to be addressed, and importantly, for the public's participation in

this controversial decision to be fully supported by provision of ample time. Intervenors have far fewer technical and economic resources with which to undertake their case than either the Staff or the Applicant. It is immaterial that other licensing proceedings have utilized a mere 30-day window, when the Board's own experiences, as individual adjudicators, certainly reveals the nuance and complicated nature of commercial power plant licensing conditions.

The undersigned counsel has been authorized to sign this memorandum on behalf of all Intervenors.

WHEREFORE, the Intervenors in the proceeding respectfully request the ASLB to grant them 60 days after each scheduling milestone within which to raise new or amended contentions.

Executed in Accord with 10 C.F.R. § 2.304(d)

/s/ Terry J. Lodge
Terry J. Lodge (Ohio Bar #0029271)
316 N. Michigan St., Ste. 520
Toledo, OH 43604-5627
Phone/fax (419) 255-7552
tjlodge50@yahoo.com
Counsel for Intervenors

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The DTE Electric Company)	NRC 2014-0109
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing “INTERVENORS’ MEMORANDUM ON NON-AGREED MATTERS OF SCHEDULING AND MANDATORY DISCLOSURES” was deposited in the NRC’s Electronic Information Exchange this 23rd day of February, 2015 and was served upon all parties of record.

Executed in accord with 10 C.F.R. § 2.304(d)

/s/ Terry J. Lodge
Terry J. Lodge (Ohio Bar #0029271)
316 N. Michigan St., Ste. 520
Toledo, OH 43604-5627
Phone/fax (419) 255-7552
tjlodge50@yahoo.com
Counsel for Intervenors