

POLICY ISSUE

Notation Vote

December 6, 2016

SECY-16-0138

FOR: The Commissioners

FROM: Victor M. McCree
Executive Director for Operations

SUBJECT: REQUEST FOR AUTHORIZATION TO ISSUE RENEWED
FULL-POWER FACILITY OPERATING LICENSE FOR FERMI 2
NUCLEAR POWER PLANT

PURPOSE:

This paper informs the Commission of the completion of the U.S. Nuclear Regulatory Commission (NRC) staff's safety and environmental review of the license renewal application (LRA) for the Fermi 2 Nuclear Power Plant (Fermi 2).

The paper also requests that the Commission authorize the Director of the Office of Nuclear Reactor Regulation (NRR) to issue the renewed full-power facility operating license for Fermi 2, on or before December 23, 2016. This request is consistent with previous Commission direction that the staff may renew operating licenses without prior Commission authorization for uncontested license renewal reviews. As described in the paper, a motion was recently submitted to reopen the closed record in the Fermi 2 license renewal proceeding.

This paper does not address any new commitments or resource implications.

BACKGROUND:

In a letter dated April 24, 2014, DTE Electric Company (DTE or the applicant) submitted an application (Agencywide Documents Access and Management System (ADAMS) Accession No. ML14121A554) to renew the operating license for Fermi 2, in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," and 10 CFR Part 54, "Requirements for Renewal of Operating Licenses for Nuclear Power Plants." In its submittal, DTE requested the renewal of Operating License No. NPF-43, which was initially issued under Section 103 of the

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Atomic Energy Act, for a period of 20 years beyond the current license expiration of March 20, 2025.

Following DTE's submittal of the Fermi 2 LRA, the staff conducted environmental and safety reviews in accordance with NRC regulations. The staff documented the findings of its safety review in a safety evaluation report (SER), "Safety Evaluation Report Related to the License Renewal of Fermi 2," dated July 12, 2016 (ADAMS Accession No. ML16190A241). The staff documented the findings of its environmental review in a final supplemental environmental impact statement (SEIS), designated as NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 56, Regarding Fermi 2 Nuclear Power Plant," dated September 30, 2016 (ADAMS Accession No. ML16259A103 for Volume 1 and ML16259A109 for Volume 2).

By a memorandum dated November 9, 2016, the NRC staff informed the Commission of its intent to issue the renewed facility operating license for Fermi 2 on November 29, 2016 (ADAMS Accession No. ML16270A270).

On November 21, 2016 (ADAMS Accession No. ML16326A449), as corrected on November 25, 2016 (ADAMS Accession No. ML16330A688), Citizens' Resistance At Fermi 2 (CRAFT) submitted a motion to reopen the closed record in the Fermi 2 license renewal proceeding and file a new contention. This motion is pending before the Commission.

By a memorandum dated November 29, 2016 (ADAMS Accession No. ML16330A117), the staff informed the Commission that it would delay the issuance of the Fermi 2 renewed license pending the submittal of this Commission paper and the Commission direction.

DISCUSSION:

Staff Performance of Safety Review

The SER referenced above presents the conclusions of the staff's review using the guidance in NUREG-1800, Revision 2, "Standard Review Plan for Review of License Renewal Applications for Nuclear Power Plants," issued December 2010. It documents the results of the scoping and screening, aging management programs (AMPs), and time-limited aging analyses in accordance with the requirements of 10 CFR Part 54. The staff concluded that DTE meets the standards for issuance of a renewed license as set by 10 CFR 54.29, "Standards for issuance of a renewed license."

To support the review, the staff conducted an inspection at Fermi 2 in accordance with Inspection Manual Chapter 2516, "Policy and Guidance for the License Renewal Inspection Program," and Inspection Procedure 71002, "License Renewal Inspection." In Inspection Report 05000341/2015009, dated June 10, 2015 (ADAMS Accession No. ML15162B041), the staff concluded that the scoping, screening, and existing aging management license renewal activities were generally conducted as described in the Fermi 2 LRA; that documentation was available; and that implementation of the proposed AMPs should provide reasonable assurance that the intended functions of vital plant systems, structures, and components will be maintained through the period of extended operation.

The staff briefed the Advisory Committee on Reactor Safeguards (ACRS) on September 8, 2016. On September 16, 2016, the ACRS issued its letter report on the Fermi 2 LRA (ADAMS Accession No. ML16257A527). The ACRS concluded that the programs established and committed to by DTE to manage aging-related degradation provide reasonable assurance that Fermi 2 can be operated in accordance with its current licensing basis for the period of the extended operation without undue risk to public health and safety. The ACRS also concluded that the application for the renewal of the Fermi 2 operating license should be approved.

Accordingly, the staff finds that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted safely in accordance with the current licensing basis for Fermi 2.

Staff Performance of Environmental Review

The final SEIS referenced above documents the staff's environmental review, conducted in accordance with 10 CFR Part 51 using the guidelines described in NUREG-1555, "Standard Review Plans for Environmental Reviews for Nuclear Power Plants," issued March 2000 and its Supplement 1, "Operating License Renewal," Revision 1, issued June 2013. The staff had previously published a draft SEIS (ADAMS Accession No. ML15300A064 for Volume 1 and ML15300A073 for Volume 2) and considered public comments in developing the final SEIS. The staff also held three public meetings in Monroe, MI, and consulted with other Federal, State, and local agencies.

As discussed in Section 5.0, "Conclusion," of the SEIS, the NRC staff's recommendation is that the adverse environmental impacts of Fermi 2 license renewal are not great enough to deny the option of license renewal for energy-planning decision makers. This recommendation was based on all of the following:

- the analysis and findings in NUREG-1437;
- the environmental report submitted by DTE in conjunction with the Fermi 2 LRA;
- consultation with other Federal, State, and local agencies;
- the staff's independent review; and
- the staff's consideration of public comments received.

Based on a review of the Fermi 2 LRA submitted by DTE, the staff finds that there is sufficient basis to support the option of license renewal from an environmental perspective. The staff also finds that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted safely in accordance with the current licensing basis for Fermi 2.

Hearings, Petitions, and Adjudicatory Requests

Several requests for hearings, motions, and adjudicatory review were filed in the course of the staff's review of the Fermi 2 LRA.

The *Federal Register* notice of hearing and opportunity to petition for leave to intervene in this proceeding was issued on June 18, 2014. On August 18, 2014, CRAFT and another petitioner filed multiple contentions related to both safety concerns and National Environmental Policy Act

concerns. On February 6, 2015, the Atomic Safety and Licensing Board (ASLB) admitted three contentions in limited form in its LBP-15-5 ruling (ADAMS Accession No. ML15037A618). On September 8, 2015, the Commission reversed the ASLB's decision admitting the three contentions and ordered the ASLB to terminate the proceeding (ADAMS Accession No. ML15251A049). On September 11, 2015, the proceeding was terminated (ADAMS Accession No. ML15254A406).

On November 21, 2016 (ADAMS Accession No. ML16326A449), as corrected by a November 25, 2016, filing (ADAMS Accession No. ML16330A688), CRAFT submitted a motion to reopen the record and a petition to intervene that challenges the adequacy of the Fermi 2 severe accident mitigation alternatives analysis. CRAFT asserts that DTE improperly accounted for potassium iodide distribution and ingestion effectiveness in the model. On December 1, 2016, DTE (ADAMS Accession No. ML16336A727) and the staff (ADAMS Accession No. ML16336A632) filed answers opposing CRAFT's motion to reopen the proceeding and the petition to intervene. The motion to reopen the proceeding and petition to intervene are pending before the Commission and are not addressed in this paper.

The NRC can issue a renewed operating license to Fermi 2 prior to the resolution of appeals and pending contentions. This circumstance is discussed in Commission Order Number CLI-08-13, *Amergen Energy Company, LLC* (Oyster Creek Nuclear Generating Station) (ADAMS Accession No. ML081690665) and in the staff requirements memorandum (SRM) dated March 4, 2015, associated with SECY-15-0018, "Renewal of Full-Power Operating License for Callaway Plant." Further, 10 CFR 2.1202(a) states, in part, that "[d]uring the pendency of any hearing under this subpart, consistent with the NRC staff's findings in its review of the application of matter which is the subject of the hearing and as authorized by law, the NRC staff is expected to promptly issue its approval or denial of the application..." Further, in accordance with 10 CFR 54.31(c), if a renewed license is subsequently set aside on appeal, the previous operating license would be reinstated. For Fermi 2, this would mean reverting to the current license, which is effective until March 20, 2025.

In the SRM dated June 5, 2002, associated with SECY-02-0088, "Turkey Point Nuclear Plant, Units 3 and 4, Renewal of Full-Power Operating Licenses," the Commission authorized the Director of NRR to renew operating licenses without prior Commission authorization "for uncontested license renewal reviews." Given the motion that was recently submitted, the staff has determined that requesting Commission authorization is necessary prior to issuing the renewed license.

RECOMMENDATION:

The staff recommends that the Commission authorize the Director of NRR to renew the operating license for Fermi 2 on or before December 23, 2016. The renewal would be based on the staff's issuance of the final SEIS and final SER, as well as the inspection results and ACRS review described above.

The Commissioners

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COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objections.

/RA by Michael F. Weber for/

Victor M. McCree
Executive Director
for Operations

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The Office of the General Counsel has reviewed this paper and has no legal objections.

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Victor M. McCree
 Executive Director
 for Operations

Accession Number: ML16333A309

***Concurred via e-mail**

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