

9 March 2017

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE SECRETARY OF THE COMMISSION**

In the Matter of)
)
DTE ELECTRIC CO.) Docket No. 50-341-LR
(Fermi Nuclear Reactor, Unit 2))
)

**CITIZENS' RESISTANCE AT FERMI 2 (CRAFT) COMBINED REPLY TO NRC
STAFF AND DTE ANSWERS TO CRAFT PETITION FOR REVIEW OF LBP-17-01**

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In accordance with 10 CFR Part 2.341, Citizens’ Resistance at Fermi 2 (CRAFT) respectfully submits this Combined Reply to Answers filed by DTE Electric Company (DTE) and the NRC Staff pertaining to CRAFT’s Petition for Review of ASLBP (Board) decision LBP-17-01. DTE and the NRC Staff oppose CRAFT’s Petition for Review before the Commission.

Fortunately for CRAFT, both Answer briefs rely on the same false assertion that the Commission is required by its own procedural rules of practice to deny CRAFT’s Petition for Review. For instance, DTE explains and then essentially dismisses that the standard for review under 10 CFR Part 2.341(b)(4)(v) allows the Commission to use its own discretion to grant a petition for review based on “any ... consideration which the Commission may deem to be in the public interest.” (DTE Answer at 2, citing 10 CFR Part 2.341(b)(4)(i)-(v)).

CRAFT’s proposed new contention and permissible follow-up reply arguments raise substantial and important questions within the scope of license renewal. In any event, all of

CRAFT's existing questions are appropriate for consideration under statutes pertaining to federal relicensing actions, if for no other reason than all such substantial and important questions raised by CRAFT are vital to the public interest and should therefore be of interest to the Commission as well.

Moreover, the Commission's wide discretion to reopen an adjudicatory proceeding must extend to the prerogative to accept as sufficient grounds for review an ordinary plea of new evidence without an affidavit. Otherwise, an exceptionally grave issue of public concern would present no inherent good cause for review. Though DTE would have the Commission disregard its own regulations, the Commission disfavors attempts to shutter its wide latitude of discretion provided by courts to regulate all matters within statutory reach.

To be sure, CRAFT argues that the Commission need not even apply its own backstop of ultimate discretion set forth in 10 CFR Part 2.341(b)(4)(v) in order to justify granting CRAFT's Petition for Review. Rather, CRAFT's Petition for Review is worthy of due consideration based on the Commission's own criteria as set forth in 10 CFR Part 2.341(b)(4)(iii): "A substantial and important question of ... discretion has been raised" again in this proceeding by CRAFT's new pleading.

In conclusion, for the above reasons, the Commission should grant CRAFT's Petition for Review.

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
Before the Secretary of the Commission**

In the Matter of) Docket No. 50-341
DTE Electric Company) December 9, 2016
(Fermi Nuclear Power Plant, Unit 2))
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing “Citizens’ Resistance at Fermi 2 (CRAFT)’s Combined Reply to Answers Filed by DTE Electric Company (DTE) and the NRC Staff pertaining to CRAFT’s Petition For Review of LBP-17-01” were served by me upon the parties to this proceeding via deposit into the NRC’s Electronic Information Exchange system this 9th day of March, 2017.

Respectfully submitted,

Signed (electronically) by:
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