

**NUCLEAR REGULATORY COMMISSION**

[Docket No. 50-341]

**In the Matter of Detroit Edison Company (Fermi 2); Exemption****I**

The Detroit Edison Company (the licensee) is the holder of Facility Operating License No. NPF-43, which authorizes operation of Fermi 2. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of a boiling-water reactor at the licensee's site located in Monroe County, Michigan.

**II**

Section 70.24 of Title 10 of the Code of Federal Regulations, "Criticality accident requirements," requires that each licensee authorized to possess special nuclear material (SNM) shall maintain a criticality accident monitoring system in each area where such material is handled, used, or stored. Subsections (a)(1) and (a)(2) of 10 CFR 70.24 specify detection and sensitivity requirements that these monitors must meet. Subsection (a)(1) also specifies that all areas subject to criticality accident monitoring must be covered by two detectors.

Paragraph (a) of 10 CFR 70.14 states that the Commission may, upon application of any interested person, grant such exemptions from the requirements of the regulations in 10 CFR Part 70 as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

**III**

The SNM that could be assembled into a critical mass at Fermi 2 is in the form of nuclear fuel; the quantity of SNM other than fuel that is stored on site in any given location is small enough to preclude achieving a critical mass. The Commission has evaluated the possibility of an inadvertent criticality of the nuclear fuel at Fermi 2 and has determined that it is extremely unlikely for such an accident to occur if the licensee meets the following seven criteria:

1. Only three new fuel assemblies are allowed out of a shipping cask or storage rack at one time.

2. The k-effective does not exceed 0.95, at a 95% probability, 95% confidence level in the event that the fresh fuel storage racks are filled with

fuel of the maximum permissible U-235 enrichment and flooded with pure water.

3. If optimum moderation occurs at low moderator density, then the k-effective does not exceed 0.98, at a 95% probability, 95% confidence level in the event that the fresh fuel storage racks are filled with fuel of the maximum permissible U-235 enrichment and flooded with a moderator at the density corresponding to optimum moderation.

4. The k-effective does not exceed 0.95, at a 95% probability, 95% confidence level in the event that the spent fuel storage racks are filled with fuel of the maximum permissible U-235 enrichment and flooded with pure water.

5. The quantity of forms of SNM, other than nuclear fuel, that are stored on site in any given area is less than the quantity necessary for a critical mass.

6. Radiation monitors, as required by General Design Criterion 63, are provided in fuel storage and handling areas to detect excessive radiation levels and to initiate appropriate safety actions.

7. The maximum nominal U-235 enrichment is limited to 5.0 weight percent.

By letter dated April 27, 1998, the licensee requested an exemption from 10 CFR 70.24. In this request the licensee addressed the seven criteria given above. The Commission has reviewed the licensee's submittal and has determined that Fermi 2 meets the applicable criteria. Criteria 2 and 3 are not applicable to Fermi 2 because plant procedures preclude the use of the fresh fuel storage racks. Therefore, the staff has determined that it is extremely unlikely for an inadvertent criticality to occur in SNM handling or storage areas at Fermi 2.

The purpose of the criticality monitors required by 10 CFR 70.24 is to ensure that if a criticality were to occur during the handling of SNM, personnel would be alerted to that fact and would take appropriate action. The staff has determined that it is extremely unlikely that such an accident could occur; furthermore, the licensee has criticality accident monitors conforming to 10 CFR 70.24 in the areas in which fuel is handled outside the inner metal shipping cask and administrative controls over the handling of the casks in other areas. The low probability of an inadvertent criticality, together with the licensee's criticality accident monitors and administrative controls, constitutes good cause for granting an exemption to the requirements of 10 CFR 70.24(a).

**IV**

The Commission has determined that, pursuant to 10 CFR 70.14, this exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants the Detroit Edison Company, an exemption from the requirements of 10 CFR 70.24(a) for Fermi 2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (63 FR 29256).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 2nd day of June 1998.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Director, Office of Nuclear Reactor Regulation.*

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**NUCLEAR REGULATORY COMMISSION**

[Docket No. 50-260 and 50-296]

**Tennessee Valley Authority; Notice of Consideration of Issuance of Amendment to Facility Operating Licenses and Opportunity for a Hearing**

The U.S. Nuclear Regulatory Commission (NRC, the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR-52 and DPR-68 issued to the Tennessee Valley Authority (TVA or the licensee) for operation of the Browns Ferry Nuclear Plant (BFN), Units 2 and 3, located in Limestone County, Alabama.

Presently, the BFN Units 2 and 3 are licensed to operate at a maximum rated thermal power of 3293 MWt. By letter dated October 1, 1997, as supplemented October 14, 1997, March 16, April 1 and 28, May 1 and 20, 1998, the licensee proposed changes to the BFN Units 2 and 3 Technical Specifications (TS) to allow operation of the Units at the uprated power level of 3458 MWt which represents a proposed power level increase of 5 percent. The licensee proposed several TS changes to revise the rated thermal power value, flow, pressure and temperature values for various systems and structures, relief valve setpoints and associated surveillance requirements to reflect operation of the BFN Units 2 and 3 at the increased power level. For further details with respect to specific TS

changes, see the application for amendments.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By July 9, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 FR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Athens Public Library, 405 E. South Street, Athens, Alabama. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the

proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide reference to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to General Counsel, Tennessee Valley Authority, 400 West Summit Drive, ET 10H, Knoxville, Tennessee 37902, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the

Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92. For further details with respect to this action, see the application for amendments dated October 1, 1997, as supplemented October 14, 1997, March 16, April 1 and 28, May 1, and 20, 1998, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC and at the local public document room located at the Athens Public Library, 405 E. South Street, Athens, Alabama.

Dated at Rockville, Maryland, this 3rd day of June 1998.

For the Nuclear Regulatory Commission.

**L. Raghavan,**

*Senior Project Manager, Project Directorate II-3, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.*

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**NUCLEAR REGULATORY COMMISSION**

[Docket No. 50-244]

**Rochester Gas and Electric Corporation and R.E. Ginna Nuclear Power Plant; Environmental Assessment and Finding of No Significant Impact**

The U.S. Nuclear Regulatory Commission (the Commission) is considering revoking an exemption issued to Rochester Gas and Electric Corporation (the licensee), holder of Facility Operating License No. DPR-18 for operation of the R.E. Ginna Nuclear Power Plant located in Wayne County, New York.

**Environmental Assessment**

*Identification of Proposed Action*

The proposed action would revoke one of the exemptions from the requirements of Section III.G of Appendix R to 10 CFR Part 50 issued on March 21, 1985. By letter dated January 13, 1998, the licensee informed the NRC that the exemption from Section III.G of Appendix R to 10 CFR Part 50 for the