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DTE Energy



10 CFR 50.75(f)(1)

December 12, 2003
NRC-03-0099

U. S. Nuclear Regulatory Commission
Attention: Document Control Desk
Washington D C 20555-0001

References: 1) Fermi 2
NRC Docket No. 50-341
NRC License No. NPF-43

2) Detroit Edison letter, NRC-03-0033, dated March 28, 2003

Subject: Withdrawal from Nuclear Decommissioning Trust Fund

The purpose of this letter is to inform the NRC that Detroit Edison plans to withdraw \$3,830,442.10 from the Fermi 2 Nuclear Decommissioning Trust (NDT) Fund. This withdrawal will correct the inappropriate deposit of amounts collected for covering costs associated with Fermi 2 security during plant operations into the NDT funds.

Detroit Edison needs to transfer the money during December, so please respond or provide feedback by contacting the individual listed below or by sending a response by December 22, 2003 so that this correction can be made. The circumstances leading to the incorrect deposit of collections in the Fermi 2 NDT fund are described below.

Two surcharges were specifically authorized in the same order in January 1998 to be collected from Customer Choice (open access) ratepayers (Michigan Public Service Commission Order U-11290 et.al.). One was for Fermi 2 decommissioning, the other for security related expenses during nuclear plant operation. Both surcharges were deposited into the Fermi Nuclear Decommissioning Trust Funds commencing in October 2000 through August 2003 when the situation was recognized. A cumulative amount of \$3,634,781.20 from the security surcharge was deposited in

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NDT funds subject to NRC regulation. In addition, \$195,660.90 has been calculated as the amount earned on the security surcharge deposits. Detroit Edison plans to withdraw the overfunding due to the security surcharge deposits and their earnings during December 2003.

The surcharge was collected from ratepayers for a specific purpose other than decommissioning and so this money does not belong in the NDT fund. Withdrawal will correct this error. Actions have been implemented to prevent future collections for the security surcharge from being deposited into the NDT funds.

Detroit Edison has reviewed the regulations in 10 CFR 50.75 and 50.82 which relate to withdrawals from decommissioning funds. Detroit Edison has determined that the current requirements of 10 CFR 50.82(a)(8) are not applicable to this withdrawal since the money being withdrawn is a correction for incorrect deposits rather than for reimbursement of expenses or withdrawal of extra funds. The external trustee of the fund is in agreement with the plans and agrees this correction is allowed by the trust agreement.

Following the withdrawal of the amount due to the inappropriate deposit of the security surcharge, the funding for Fermi 2 Nuclear Decommissioning will remain adequate for its position in licensed life. As reported in Reference 2, there was approximately \$372M in the Fermi 2 Nuclear Decommissioning Funds at the end of 2002. This included approximately \$2M due to the security surcharge. The remaining portion of the security surcharge amount was deposited or earned this year. The market value of the funds was approximately \$445M per the trustee's report at the most recent meeting in October 2003. The NRC formula amount per 10 CFR 50.75(c) for Fermi 2 is \$679M, as reported in Reference 2. Fermi 2 was licensed to operate in 1985 and the license expires in 2025. Current collections are approximately \$34M/yr, which includes monies for site restoration, as well as nuclear decommissioning. This collection amount does not include collections for security during plant operation.

This letter is a notification to the NRC of Detroit Edison's plans. The matter was discussed in a conference call between Mr. Rodney Johnson and Ms. Lynne Goodman of Detroit Edison and Mr. Chernoff, Mr. Dusaniwskyj and Ms. Yuttal of the NRC staff on November 20, 2003. Detroit Edison supplied requested supporting information that day. On December 11, 2003, Mr. Chernoff requested that Detroit Edison submit a formal letter. Detroit Edison requests that the NRC provide feedback as promptly as possible to support the transfer in December 2003.

To provide the requested feedback, or should you have any questions or require additional information, please contact Ms. Lynne S. Goodman of my staff at (734) 586-1205.

Sincerely,

William J. O'Connor

cc: H. K. Chernoff
M. A. Ring
NRC Resident Office
Regional Administrator, Region III
Supervisor, Electric Operators,
Michigan Public Service Commission