

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

BEYOND NUCLEAR, INC.

Petitioner,

v.

UNITED STATES NUCLEAR
REGULATORY COMMISSION
and the UNITED STATES OF AMERICA,

Respondents,

No. 15-1173

**DTE ELECTRIC COMPANY RESPONSE TO PETITIONER’S
MOTION TO HOLD PETITION FOR REVIEW IN ABEYANCE**

DTE Electric Company (“DTE”) hereby responds to the motion filed by Petitioner, Beyond Nuclear, Inc., on July 22, 2015, to hold in abeyance the portion of its petition for review involving the Continued Storage Rule, 70 Fed. Reg. 56,238 (Sept. 19, 2014), and Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel, 70 Fed. Reg. 56,263 (Sept. 19, 2014), issued by the U.S. Nuclear Regulatory Commission (“NRC”). Petitioner seeks to hold issues related to this portion of the petition for review in abeyance pending the outcome of *New York v. NRC*, Docket Nos. 14-1210, 14-1212, 14-1216, and 14-1217 (Consolidated).

DTE was the applicant for and is now the holder of the combined license for the Fermi 3 facility that is being challenged by Petitioner. DTE does not object to the motion to hold in abeyance the Petitioners' Continued Storage issues, given that (as Petitioner states) the parties are currently briefing those issues in *New York v. NRC*. Holding those issues in abeyance in this proceeding presents a clear potential for judicial economy. However, DTE also has a strong interest in the prompt resolution of the other, Fermi 3-specific issues raised in the petition — to achieve regulatory finality with respect to those matters or to initiate promptly any new regulatory proceedings mandated by this Court. Delineating the discrete issues on which to move forward is straightforward. Petitioner specifically listed the issues in the four numbered paragraphs in its Statement of Issues.¹

Although Federal Respondents in their July 27, 2015 response to motion note the possibility of a full abeyance order, Petitioner did not request that the Court hold the entirety of the case in abeyance pending resolution of *New York v. NRC*. Doing so would unnecessarily delay resolution of the Fermi 3-specific issues raised in the Petition, which are independent of the generic issues in *New*

¹ The Continued Storage issues are not listed within any of the numbered paragraphs in the Statement of Issues. Instead, Petitioner explains in a footnote that challenges to the NRC's waste storage policy are already being addressed in *New York v. NRC*.

York v. NRC. DTE therefore supports only a partial abeyance order limited to the Continued Storage issues, as requested by Petitioner.

Respectfully submitted,

/s/ signed electronically by

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Dated: July 31, 2015

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CERTIFICATE OF SERVICE

I hereby certify that on this day, copies of “DTE ELECTRIC COMPANY RESPONSE TO PETITIONER’S MOTION TO HOLD PETITION FOR REVIEW IN ABEYANCE” in the captioned proceeding have been served by Electronic Case Filing (“ECF”). That method is calculated to serve:

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