UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

RAS 2262 **DOCKETED 10/06/00**

ATOMIC SAFETY AND LICENSING BOARD PANEL

SERVED 10/06/00

Before Administrative Judges:

Ann Marshall Young, Chair
Dr. Charles N. Kelber
Thomas S. Moore

In the Matter of NORTHEAST NUCLEAR ENERGY COMPANY (Millstone Nuclear Power Station, Units 2 and 3)	Docket No's. 50-336-LA and 50-423-LA ASLBP No. 00-783-09-LA October 6, 2000

ORDER
(Setting Schedule for Proceedings)

1. This proceeding involves two applications of Northeast Nuclear Energy Company (NNECO), to amend its operating licenses for Millstone Nuclear Power Station, Units 2 and 3, by relocating selected radiological effluent technical specifications (RETS) and associated bases from the licenses at issue to the Millstone Radiological Effluent Monitoring and Offsite Dose Calculation Manual (REMODCM). Petitioners Connecticut Coalition Against Millstone (CCAM) and the STAR Foundation (STAR) have petitioned to intervene and requested a hearing with regard to the amendment applications.

2. On October 2, 2000, NNECO, in response to an Order of the Licensing Board, provided copies of the relevant amendment applications and all attachments to the Licensing Board and to the petitioners' counsel and NRC staff counsel, with actual marked-up copies indicating proposed changes received by the undersigned on October 4.

3. Pursuant to 10 C.F.R. § 2.714(a)(3) & (b)(1), the petitioners have the right, respectively, to amend their petition with regard to standing, and to supplement their petition with regard to contentions. A deadline of no later than October 27, 2000, is hereby set for the

filing of the petitioners' amended and supplemented petition. The petitioners shall, pursuant to 10 C.F.R. § 2.714(a)(2) & (d)(1), address in their amended petition the type of standing they wish to establish and provide the required particulars of such standing, including filing appropriate affidavits demonstrating how they meet the requirements of the rule. *See Yankee Atomic Electric Company (Yankee Nuclear Power Station)*, CLI-98-21, 48 NRC 185, 194-196 (1998); *Atlas Corp. (Moab, Utah Facility)*, LBP-97-9, 45 NRC 414, 423-427 (1997); *Energy Fuels Nuclear, Inc. (White Mesa Uranium Mill)*, LBP-97-10, 45 NRC 429, 431(1997). The petitioners shall further, in supplementing their petition with regard to their contention(s), fully comply with all the requirements of C.F.R. § 2.714(b)(2), including providing a concise statement of all appropriate facts and expert opinion supporting such contention(s), with specific reference to documentary, expert and other sources of such facts and opinion. *See Gulf States Utilities Company (River Bend Station, Unit 1)*, CLI-94-10, 40 NRC 43, 51-53 (1994); *Arizona Public Service Company (Palo Verde Nuclear Generating Station, Units 1, 2, and 3)*, CLI-91-12, 34 NRC 149, 155-156 (1991); *Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station)*, LBP-93-23, 38 NRC 200, 205-206 (1993); *Florida Power and Light Company (Turkey Point Nuclear Generating Plant, Units 3 and 4)*, LBP-90-16, 31 NRC 509, 515 *et seq*. (1990).

4. NNECO and Staff counsel shall file responses to the amended and supplemented petition <u>no later than November 17, 2000</u>. It is noted that both counsel have cited the Commission decisions in *Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Unit 1)*, CLI-93-21, 38 NRC 87 (1993) (hereinafter *"Perry I"*) and *Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Unit 1)*, CLI-96-13, 44 NRC 315 (1996) (hereinafter *"Perry II"*) in the answers of NNECO and the Staff. In order to assist the board in more efficiently

addressing and ruling on the matters at issue, counsel are requested in their filings to supplement their arguments with regard to *Perry* by addressing the following questions:

(a) How does standing in this case fit within the analysis provided by the Commission at pages 93 through 96 of *Perry I*, and how may this case be distinguished?

(b) How does the contention in this case fit within the reasoning provided by the Commission in the language quoted below from page 329 of *Perry II*, and how may this case be distinguished?

> . . . . If the Intervenors believed that the nature and significance of the material specimen withdrawal schedule was such that it needed to remain in the Perry technical specifications - as a specific term of the Perry license - the Intervenors could have raised that argument in this proceeding. They instead concurred with the NRC Staff that there is no statutory or regulatory requirement that the withdrawal schedule remain in the Perry license.

5. On November 30, 2000, from 10:00 a.m. to 12:00 noon EST, a telephone prehearing conference shall be held, to hear oral argument on the issues of standing and the admissibility of the contention(s) in this case. Participants may call in to 301/231-5539 and give the pass code 1352 to be connected to the call; any member of the public wishing to listen to the conference may also, subject to the availability of telephone lines, call in to the same number and give the same pass code.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD[1]

/RA/

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Ann Marshall Young, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
October 6, 2000

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[1]Copies of this Order were sent this date by Internet e-mail or facsimile transmission, if available, to all participants or counsel for participants.

NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
NORTHEAST NUCLEAR ENERGY COMPANY	)	Docket Nos. 50-336/423-LA
	)	
	)	
(Millstone Nuclear Power Station, Unit Nos. 2 and 3)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (SETTING SCHEDULE FOR PROCEEDINGS) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Docket Nos. 50-336/423-LA
LB ORDER (SETTING SCHEDULE
FOR PROCEEDINGS)

[Original signed by Adria T. Byrdsong]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 6th day of October 2000