

RAS 3544

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 11/05/01

ATOMIC SAFETY AND LICENSING BOARD

SERVED 11/05/01

Before Administrative Judges:

Charles Bechhoefer, Chairman
Dr. Richard F. Cole
Dr. Charles N. Kelber

In the Matter of

DOMINION NUCLEAR CONNECTICUT, INC.

(Millstone Nuclear Power Station, Unit No. 3;
Facility Operating License NPF-49)

Docket No. 50-423-LA-3

ASLBP No. 00-771-01-LA-R

November 5, 2001

MEMORANDUM AND ORDER

(Telephone Conference Call, 10/31/01; Schedules for Proceeding)

As set forth in the Atomic Safety and Licensing Board's October 5, 2001 Memorandum and Order (Staff Motion to Continue to Hold Proceeding in Abeyance), LBP-01-29, 54 NRC ___ (hereinafter LBP-01-29), prehearing activities in this proceeding have been deferred pending completion and distribution of a report by NRC's Office of Investigations (OI), as well as the completion and distribution by Dominion Nuclear Connecticut, Inc. (DNC or Licensee) of reports of its Fuel Rod Accountability Project (FRAP Report) and its Root Cause Analysis (RCA). DNC distributed its FRAP Report on October 5, 2001 and its RCA on October 29, 2001.¹ The Staff distributed the OI Report on October 31, 2001.

On October 31, 2001, the Atomic Safety and Licensing Board conducted a telephone conference call to consider schedules for discovery, parties' presentations and oral argument for this proceeding, following expiration of the deferral on October 31,

¹Because of the temporary closure of the NRC mailroom, paper copies of the FRAP Report and RCA were not received by the Administrative Judges or the NRC Staff prior to the October 31, 2001 conference call described in this Memorandum and Order.

2001 (Tr. 644-669). Participating, in addition to the three Administrative Judges, were David Repka, Esq., Donald Ferraro, Esq., Lilian Cuoco, Esq. and Mr. Peter Hyde, on behalf of DNC; Nancy Burton, Esq., on behalf of the Intervenors, Connecticut Citizens Against Millstone (CCAM) and Long Island Citizens Against Millstone (CAM); and Ann Hodgdon, Esq. and Mr. Victor Nerses, Project Manager, on behalf of the NRC Staff. Also present were Joseph Besade and Peter Reynolds, members of CCAM, and Mr. Paul Gunter, of the Nuclear Information Research Service (NIRS). The following rulings were made:

1. Discovery. The Licensing Board initially suggested that a 60-day discovery period would be sufficient for the single issue remaining in this proceeding. CCAM/CAM sought a 90-day period, whereas DNC and the Staff found 60 days to be sufficient. The Staff advised, however, that it could not adequately respond to discovery requests prior to the end of November, given its current schedule for review of the FRAP Report and RCA.

The Licensing Board approved an approximately 90-day discovery period, commencing November 7, 2001, but with no questions being asked the Staff prior to December 4, 2001 (Tr. 663-64). Discovery extends until February 8, 2002 (thus allowing an approximate 60-day discovery period against the Staff). The Board further provided that, as requested by DNC, no discovery requests may be filed after January 25, 2002 (Tr. 665).

2. Prepared Statements. Customarily, detailed written statements would be filed approximately a month after the end of discovery. At the request of all parties, and particularly the Staff (Tr. 666-67), prepared statements are scheduled to be filed on Friday, March 18, 2002, to accommodate an oral argument date (April 2, 2002) that does not conflict with parties' celebrations of Easter or Passover.

3. Oral Argument. Oral argument is hereby scheduled for Tuesday, April 2, 2002, at a location in or near New London, Connecticut. The time and precise location of the argument will be announced at a later date.

4. Settlement. The Licensing Board urged the parties to discuss among themselves, during the discovery period set forth above, terms for possible settlement of the single issue still outstanding in this proceeding. The Board stressed that the Commission encourages settlement of issues whenever possible (Tr. 667). See also 10 C.F.R. §§ 2.759, 2.1117.

5. Other Matters. During the course of the conference, CCAM/CAM advised that it would be submitting additional information for the Board's consideration at an early date (Tr. 656-67). On November 1, 2001, the Board received (by e-mail) a new late-filed contention submitted by CCAM/CAM. Following receipt of comments from other parties, the Board will rule on this proposed contention. Also, the attached corrections to the transcript of the October 31, 2001 telephone conference are adopted by the Board.

* * *

IT IS SO ORDERED.

For the Atomic Safety and Licensing Board

/RA/

Charles Bechhoefer, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
November 5, 2001

Attachment: Transcript Corrections, 10/31/01 Telephone Conference

[Copies of this Memorandum and Order have been transmitted this date by e-mail to counsel for each of the parties.]

Transcript Corrections, October 31, 2001 Telephone Conference Call

1. In the transcript of the October 31, 2001 telephone conference, on page 650, line 22, the statement should be attributed to Ms. Hodgdon, rather than Ms. Burton.
2. On page 651, lines 10 and 13, the statements should be attributed to Ms. Hodgdon, rather than Ms. Burton.
3. On page 652, line 4, the statement should be attributed to Ms. Hodgdon, rather than Ms. Burton.
4. On page 656, line 15, "coalitions" should be "Coalitions."

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
DOMINION NUCLEAR CONNECTICUT, INC.) Docket No. 50-423-LA-3
)
)
(Millstone Nuclear Power Station,)
Unit No. 3))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (TELEPHONE CONFERENCE CALL, 10/31/01; SCHEDULES FOR PROCEEDING) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Charles Bechhoefer, Chairman
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Richard F. Cole
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Charles N. Kelber
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Ann P. Hodgdon, Esq.
Robert M. Weisman, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Lillian M. Cuoco, Esq.
Dominion Nuclear Connecticut, Inc.
Millstone Nuclear Power Station
Building 475/5
Rope Ferry Road (Route 156)
Waterford, CT 06385

Docket No. 50-423-LA-3
LB MEMORANDUM AND ORDER (TELEPHONE
CONFERENCE CALL, 10/31/01; SCHEDULES
FOR PROCEEDING)

David A. Repka, Esq.
Donald P. Ferraro, Esq.
Winston & Strawn
1400 L Street, NW
Washington, DC 20005

Nancy Burton, Esq.
147 Cross Highway
Redding Ridge, CT 06876

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 5th day of November 2001