

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

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 29, 2001

MEMORANDUM AND ORDER
(Clarifying Memorandum and Order dated November 15, 2001)

As directed earlier in this proceeding (see Memorandum and Order (Telephone Conference, 5/24/01), dated June 21, 2001 (unpublished), at 5), the NRC Staff on October 31, 2001, provided copies of OI Report 1-2001-007 to the Board and parties. In accord with that direction, the Staff provided only the basic report but not the appendices (exhibits) to that report.

In our Memorandum and Order (Appendices to OI Report, Case 1-2001-007), dated November 15, 2001, we directed the NRC Staff to furnish the Licensing Board and parties (to the extent they already had not been furnished the materials) with copies of the appendices (exhibits) to the OI Report. The NRC Staff, by motion dated November 20, 2001, seeks to have us reconsider our November 15, 2001 Order.

We decline to do so. But, by way of clarification, we wish to point out that our November 15, 2001 Memorandum and Order was not intended to raise any question about whether the Staff had satisfactorily complied with our earlier direction. The Staff clearly has done so. Nor was it intended to require any Staff response prior to the

commencement of discovery against the Staff—currently scheduled to begin on December 4, 2001—although we certainly would not have precluded the Staff from furnishing the appendices earlier (“at its earliest convenience”). Our order reflects our own perusal of the OI Report itself, CCAM/CAM’s November 7, 2001 request to the Staff for these materials, and our view that much of the report cannot be adequately understood without the appendices (exhibits).

We note that, in its reconsideration motion, the Staff characterizes the appendices as “voluminous.” It also advises that the licensee (DNC) has not been provided these materials. (In providing the report to the Board and parties on October 31, 2001, the Staff stated that the report was “also” being transmitted to the licensee by a letter from the Chief of the Decommissioning and Laboratory Branch, Region I. The Board is not aware of the scope of the report furnished to DNC by Region I.) For its part, DNC has declined to produce these materials in response to CCAM/CAM’s motion for production of documents, on the ground that these are Staff documents more properly available from the Staff. See DNC’s Response to Intervenors’ First Set of Interrogatories and Request for Production in the Reopened Proceedings, dated November 21, 2001, at 2, 10 (e-mail version).

In its reconsideration motion, the Staff seeks to have us, in effect, withdraw our November 15, 2001 order and “reaffirm” our November 5, 2001 scheduling order. As set forth above, however, when properly interpreted our November 15, 2001 order is consistent with our November 5, 2001 scheduling order. Accordingly, the Staff’s motion

for reconsideration of our Memorandum and Order (Appendices to OI Report, Case 1-2001-007), dated November 15, 2001, is hereby denied.

For the Atomic Safety and Licensing Board

/RA/

Charles Bechhoefer, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
November 29, 2001

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

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NUCLEAR REGULATORY COMMISSION

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(Millstone Nuclear Power Station,)
Unit No. 3))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (CLARIFYING MEMORANDUM AND ORDER DATED NOVEMBER 15, 2001) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Docket No. 50-423-LA-3
LB MEMORANDUM AND ORDER
(CLARIFYING MEMORANDUM AND ORDER
DATED NOVEMBER 15, 2001)

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[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 29th day of November 2001