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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF THE SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

BEFORE THE COMMISSION

In the Matter of

Docket No's. 50-369-LR, 50-370-LR,
50-413-LR, and 50-414-LR

DUKE ENERGY CORPORATION

ASLBP No. 02-794-01-LR

(McGuire Nuclear Station, Units 1 and 2,
Catawba Nuclear Station, Units 1 and 2)

March 12, 2002

**NUCLEAR INFORMATION AND RESOURCE SERVICE
REPLY BRIEF REGARDING
ADMISSIBILITY OF NEPA ISSUES RELATING
TO TERRORISM AND SABOTAGE**

Pursuant to Memorandum and Order CLI-02-05 (February 6, 2002), Nuclear Information and Resource Service ("NIRS") hereby replies to the briefs filed by Duke Energy Corporation ("Duke") and the Nuclear Regulatory Commission ("NRC" or "Commission") Staff.¹ This brief also replies to the amicus brief filed by the Nuclear Energy Institute.²

Word for word, the legal arguments in Duke's and the NRC Staff's briefs are virtually identical to the briefs filed by Dominion Nuclear Connecticut ("DNC") and the Staff in response to CLI-02-05 in the Millstone case. *See* Brief of Dominion Nuclear Connecticut, Inc. In Response to Commission Memorandum and Order CLI-02-05 (February 27, 2002); NRC Staff's Brief in Response to CLI-02-05 (February 27, 2002).

¹ *See* Brief of Duke Energy Corporation in Response to the Commission's Memorandum and Order CLI-02-06 (February 27, 2002) ("Duke Brief"); NRC Staff Brief in Response to CLI-02-06 (February 27, 2002) ("NRC Staff Brief").

² *See* Amicus Brief of Nuclear Energy Institute in Response to the Commission's Memorandum and Orders Dated February 6, 2002, Regarding the Commission's Consideration of Potential Intentional Malevolent Acts (February 27, 2002) ("NEI Brief").

NEI filed a single brief in both cases. See Amicus Brief of Nuclear Energy Institute in Response to the Commission's Memorandum and Orders Dated February 6, 2002, Regarding the Commission's Consideration of Potential Intentional Malevolent Acts (February 27, 2002) ("NEI Brief").

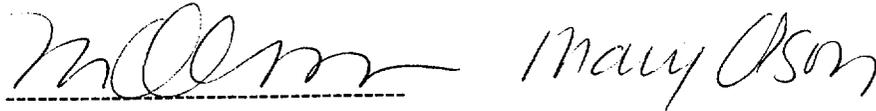
Connecticut Coalition Against Millstone and Long Island Coalition Against Millstone ("CCAM/CAM") have prepared a detailed reply to these legal arguments, on which NIRS relies. See Connecticut Coalition Against Millstone And Long Island Coalition Reply Brief Regarding NEPA Requirement To Admit Contention Regarding Environmental Impacts Of Destructive Acts Of Malice And Insanity March 12, 2002) ("CCAM/CAM Reply Brief"). Rather than repeating those arguments, NIRS refers the Commission to the CCAM/CAM Reply Brief.

There is one area in which the briefs filed by Duke and the NRC Staff contain additional arguments relevant to this case only. Their arguments address the question of whether NIRS's environmental contention raising the risk of terrorism or sabotage in a nuclear power plant license renewal case is barred by the notice of hearing, or subject to some extra procedural requirements under 10 C.F.R. § 2.758. See Duke Brief at 23-30, NRC Staff Brief at 19-20, 24-26. The arguments made by Duke and the NRC Staff reprise elements of the Atomic Safety and Licensing Board's ("ASLB's") decision in LBP-02-04. In its initial brief, NIRS has already demonstrated that the ASLB's decision on these issues was clearly erroneous. Duke and the Staff have added nothing new to the ASLB's decision that would warrant further attention.

In the course of this briefing, Duke and the NRC Staff have completely failed to demonstrate that the ASLB had any legal or factual basis for refusing to admit the greater

portion of NIRS's contention seeking an EIS on the impacts of sabotage and terrorist attacks on the McGuire and Catawba plants. The contention should be remanded for litigation of all its terms.

Respectfully submitted,

 Mary Olson

Nuclear Information and Resource Service, Southeast Office
Asheville, NC
March 12, 2002

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE COMMISSION

In the Matter of:)	Docket Nos. 50-369
)	50-370
Duke Energy Corporation)	50-413
)	50-414
(McGuire Units 1 and 2, and)	
Catawba Units 1 and 2))	March 12, 2002

CERTIFICATE OF SERVICE

I hereby certify that "NUCLEAR INFORMATION AND RESOURCE SERVICE REPLY BRIEF REGARDING ADMISSIBILITY OF NEPA ISSUES RELATING TO TERRORISM AND SABOTAGE" in the captioned proceeding has been served on the following by Email and deposit in the United States mail, first class, this Twelfth day of March 2002.

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