

RAS 7150

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED 12/18/03

COMMISSIONERS:

SERVED 12/18/03

Nils J. Diaz, Chairman
Edward McGaffigan, Jr.
Jeffrey S. Merrifield

In the Matter of)
)
)
DOMINION NUCLEAR)
CONNECTICUT, INC.)
)
(Millstone Nuclear Power Station))
)
_____)

Docket No. 50-336-OLA-2

CLI-03-18

MEMORANDUM AND ORDER

The Commission has before it a petition filed by the Connecticut Coalition Against Millstone (CCAM) seeking reconsideration of the Commission’s decision in CLI-03-14, 58 NRC ____ (Oct. 23, 2003)(slip op.). Both Dominion Nuclear Connecticut, Inc. (DNC) and the NRC staff oppose the petition. We deny the petition.

As the Commission reiterated last year in another *Millstone* proceeding (in which CCAM also was a petitioner), “[p]etitions for reconsideration should not be used merely to ‘re-argue matters that the Commission already [has] considered’ but rejected.”¹ Reconsideration petitions must establish an error in a Commission decision, based upon an elaboration or refinement of an argument already made, an overlooked controlling decision or principle of law, or a factual

¹ *Dominion Nuclear Connecticut, Inc.* (Millstone Nuclear Power Station, Units 2 and 3), CLI-02-1, 55 NRC 1, 2 (2002)(quoting *Advanced Medical Systems, Inc.* (One Factory Row, Geneva, Ohio 44041), CLI-93-24, 38 NRC 187, 188 (1993)).

clarification.² CCAM's petition merely repeats arguments already considered and rejected by both the Atomic Safety and Licensing Board in LBP-03-12³ and the Commission in CLI-03-14.

In LBP-03-12, the Licensing Board ruled CCAM's contention in this proceeding inadmissible because CCAM never provided the necessary alleged facts or expert opinion to support claims that the license amendment at issue will cause a "significant increase" in effluents and an "adverse impact" on public health. CCAM's reconsideration petition suggests that no such alleged facts or expert opinion is necessary because the Licensing Board "recognized as self-evident" CCAM's claims of "peril."⁴ On the contrary, the Board found no factual or legal basis for CCAM's contention, and rejected the contention accordingly.⁵ CCAM inappropriately persists in suggesting that a Board finding of standing to intervene equates to an admissible contention. But as the Board itself explained, the "requirements for an admissible contention are ... considerably more stringent."⁶ As we noted in CLI-03-14, "[w]hile a petitioner may have a sufficient 'interest' in a proceeding for standing, he or she may have no genuine material dispute to adjudicate, or no specific factual or legal support to bring an issue to hearing."⁷

Finally, we note that throughout its petition, CCAM mischaracterizes the license amendment, suggesting that it will "eliminate the existing requirement that [DNC] maintain [the] capability to close the door to containment during a fuel handling accident," and that

² *Millstone*, CLI-02-1, 55 NRC at 2.

³ LBP-03-12, 58 NRC 75 (2003).

⁴ Motion for Reconsideration (Nov. 3, 2003) at 3.

⁵ LBP-03-12, 58 NRC at 92-93.

⁶ *Id.* at 93.

⁷ CLI-03-14, slip op. at 10.

containment penetrations will no longer need to “be operable.”⁸ But as we already stressed in CLI-03-14, the license amendment does not relieve DNC of the need to remain fully capable of closing containment penetrations.⁹

In sum, CCAM has not pointed to any factual or legal error in CLI-03-14. We deny CCAM's petition for reconsideration.

IT IS SO ORDERED.

For the Commission

/RA/

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, Maryland
this 18th day of December 2003

⁸ Motion for Reconsideration at 2-3.

⁹ CLI-03-14, slip op. at 12; see *also id.* at 7.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing COMMISSION MEMORANDUM AND ORDER (CLI-03-18) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution with copies by electronic mail as indicated.

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(CLI-03-18)

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[Original signed by Adria T. Byrdsong]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 18th day of December 2003