

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD PANEL

In the Matter of)	
)	
DOMINION NUCLEAR CONNECTICUT, INC.)	Docket Nos. 50-336, 50-423
)	
(Millstone Nuclear Power Station,)	
Units 2 and 3))	
)	

NRC STAFF'S UNOPPOSED MOTION FOR AN EXTENSION
OF TIME TO RESPOND TO CONNECTICUT COALITION AGAINST
MILLSTONE'S PETITION TO INTERVENE AND REQUEST FOR HEARING

INTRODUCTION

Pursuant to 10 C.F.R. § 2.323, the staff of the Nuclear Regulatory Commission ("Staff") hereby moves the Atomic Safety and Licensing Board Panel ("ASLBP") for an extension of time to respond to Connecticut Coalition Against Millstone's ("CCAM's") Petition to Intervene and Request for Hearing ("Petition"). Specifically, the Staff requests that the ASLBP grant the Staff an extension of time to respond to the Petition from twenty-five days after the date of filing of the Petition, to twenty-five days after the close of the 60-day period for filing a petition to intervene. The Staff's response would address the Petition as well as any future supplement CCAM files within the period for filing a petition to intervene. Staff counsel certifies that it has contacted Dominion Nuclear Connecticut, Inc. ("DNC") and CCAM and that DNC and CCAM do not oppose the Staff's request for an extension of time.

BACKGROUND

On February 12, 2004, CCAM filed a Petition to Intervene and Request for a Hearing with regard to the renewal of the operating licenses held by DNC for the Millstone Nuclear Power Station, Units 2 and 3. On March 4, 2004, the Secretary of the Commission returned the Petition to CCAM, stating that since the NRC had not yet issued a notice of the proceeding and the

opportunity for a hearing there was not yet a proceeding in which CCAM could seek to intervene. Subsequently, on March 12, 2004, the NRC published in the *Federal Register* the notice of opportunity for a hearing regarding the application for renewal of the Millstone Units 2 and 3 operating licenses. See 69 Fed. Reg. 11897 (March 12, 2004). On March 22, 2004, CCAM filed a “Motion to Vacate NRC Secretary Determination of Petition Prematurity and to Accept Petition to Intervene and Request for Hearing as of Date of Filing and to Apply ‘Old’ CFR Hearing Rules to Said Petition.”

On the same date, CCAM resubmitted its Petition to Intervene and Request for Hearing.¹ CCAM stated in its Petition that it intends to “elaborate on the basis for the petition in its formal submission of contentions.” Petition at 2. Since the Petition falls within the 60-day period for requesting a hearing, the Staff considers the March 22, 2004, Petition a timely request for a hearing. The Staff’s response to CCAM’s Petition is presently due to be filed on April 16, 2004.

DISCUSSION

Pursuant to 10 C.F.R. § 2.309(h)(1), the Staff has twenty-five days after service of a request for a hearing to file an answer. However, CCAM’s Petition itself reflects that it is incomplete and that an additional filing would be forthcoming. Specifically, the Petition states that “CCAM will elaborate on the basis for the petition in its formal submission of contentions.” Petition at 2. Furthermore, the Petition states that CCAM “reserves the right to expand upon and supplement the contentions” in the Petition. *Id.*

The Commission has recognized that its hearing requirements are meant to “improve NRC hearings, limit unproductive litigation, and at the same time ease the burdens in hearing preparation and participation for all participants.” 69 Fed. Reg. 2182, 2188 (Jan. 14, 2004). Since

¹ The Petition filed on February 12th is identical in every respect to that resubmitted on March 22nd, including the date of filing (both are dated February 12, 2004).

CCAM's Petition suggests that a further supplement to its Petition will be filed and because there is substantial time remaining in the 60-day period to request a hearing and supplement contentions, requiring a response to the Petition within 25 days of service of the Petition would result in a fragmented approach to responding to CCAM's Petition and future supplements. This would not be an efficient or effective use of participants' resources.

Accordingly, the Staff requests that the ASLBP grant an extension of time to permit the Staff to respond once to all the petitions for intervention, contentions, and supplements thereto submitted by CCAM during the 60-day period for requesting a hearing. This would extend the time for the Staff's response to the Petition from twenty-five days after the date of its filing, to twenty-five days after the close of the period for filing a petition to intervene, which ends on May 11, 2004. Therefore, the Staff's response date to the CCAM Petition and any future supplements thereto would be Monday, June 7th.

CONCLUSION

For the foregoing reasons, the Staff moves to extend the time for responding to CCAM's Petition and any future supplements thereto filed within the 60-day notice period to twenty-five days after the 60-day notice period closes, or Monday, June 7th.

Respectfully submitted,

/RA/

Catherine L. Marco
Counsel for NRC Staff

Dated at Rockville, Maryland
this 1st day of April, 2004

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD PANEL

In the Matter of)
)
DOMINION NUCLEAR CONNECTICUT, INC.) Docket Nos. 50-336
) 50-423
)
(Millstone Nuclear Power Station,)
Units 2 and 3))

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney enters an appearance in the above-captioned matter. In accordance with 10 C.F.R. § 2.304(e), the following information is provided:

Name: Catherine L. Marco
Address: U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop: O-15D21
Washington, DC 20555
Telephone Number: (301) 415-3052
Fax Number: (301) 415-3725
E-mail Address: clm@nrc.gov
Admissions: Commonwealth of Massachusetts
The District of Columbia
Name of Party: NRC Staff

Respectfully submitted,

/RA/
Catherine L. Marco
Counsel for NRC Staff

Dated at Rockville, Maryland
this 1st day of April 2004