UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

RAS 8951

DOCKETED 12/08/04

COMMISSIONERS

SERVED 12/08/04

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

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

CLI-04-36

MEMORANDUM AND ORDER

The Connecticut Coalition Against Millstone (CCAM) has sought intervenor status and a hearing in which to challenge Dominion Nuclear Connecticut's (Dominion's) pending application to renew its operating licenses for Units 2 and 3 of the Millstone Nuclear Power Station. On July 28, 2004, the Licensing Board issued LBP-04-15, 60 NRC 81, denying CCAM's intervention petition on the ground that each of CCAM's six proffered contentions was inadmissible under 10 C.F.R. § 2.309(f)(1). CCAM sought reconsideration of the Board's order, and requested permission to provide additional support for its contentions. On September 20th, the Board issued LBP-04-22, 60 NRC __, denying CCAM's motion for reconsideration and request to provide additional support. CCAM has appealed the Board's July 28th and September 20th orders. For the reasons set forth below and in the Board's two orders, we affirm those orders, deny CCAM's appeals, and terminate the proceeding.

LEGAL STANDARDS

Section 2.309(f)(1) of our new Rules of Practice provides that, for a contention to be admissible, it must provide (1) a specific statement of the legal or factual issue sought to be raised; (2) a brief explanation of its basis; (3) a concise statement of the alleged facts or expert opinions, including references to specific sources and documents, that support the petitioner's position and upon which the petitioner intends to rely at hearing; and (4) sufficient information demonstrating that a genuine dispute exists in regard to a material issue of law or fact, including references to specific portions of the application that the petitioner disputes, or in the case where the application is alleged to be deficient, the identification of such deficiencies and supporting reasons for this belief.[1] In addition, the petitioner must demonstrate that the issue raised in the contention is both "within the scope of the proceeding" and "material to the findings the NRC must make to support the action that is involved in the proceeding."[2] Failure to comply with any of these requirements is grounds for the dismissal of a contention.[3]

This agency does not look with favor on "amended or new contentions filed after the initial filing."[4] Section 2.309(f)(2) of our new regulations provides that petitioners may file such late contentions "only upon a showing that -- (i) [t]he information upon which the amended or new contention is based was not previously available; (ii) [t]he information upon which the amended or new contention is based is materially different than information previously

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[1] *See* 10 C.F.R. § 2.309(f)(1)(i), (ii), (v), and (vi). These requirements are the same as those in our prior contention pleading rule, 10 C.F.R. § 2.714(c).

[2] *See id.* § 2.309(f)(1)(iii), (iv).

[3] *See Private Fuel Storage, LLC* (Independent Spent Fuel Storage Installation), CLI-99-10, 49 NRC 318, 325 (1999); *Arizona Pub. Serv. Co.* (Palo Verde Nuclear Generating Station, Units 1, 2, and 3), CLI-91-12, 34 NRC 149, 155 (1991).

[4] 10 C.F.R. § 2.309(f)(2).

available; and (iii) [t]he amended or new contention has been submitted in a timely fashion based on the availability of the subsequent information."[5]

The NRC likewise sets a high bar for parties seeking reconsideration of Board orders. Section 2.323(e) of our regulations provides that

> Motions for reconsideration may not be filed except upon leave of the presiding officer or Commission, upon a showing of compelling circumstances, such as the existence of a clear and material error in a decision, which could not have reasonably been anticipated, that renders the decision invalid.

Finally, the Commission affirms Board rulings on admissibility of contentions if the appellant "points to no error of law or abuse of discretion."[6]

DISCUSSION

I. Appeal of LBP-04-15

CCAM asserts in its appeal of LBP-04-15 that the Board should have admitted all six of CCAM's contentions. We examine each one briefly below and conclude that CCAM has failed on appeal to address adequately (if at all) the Board's grounds for refusing to admit these contentions. We also concur with the Board's conclusions that CCAM has repeatedly failed to provide specific support for its contentions and that many of its contentions are beyond the limited scope of this license renewal proceeding. Consequently, we affirm LBP-04-15.

In Contention I, CCAM argued that "[t]he operations of Millstone Units 2 and 3 have caused death, disease, biological and genetic harm and human suffering on a vast scale."[7] The

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[5] 10 C.F.R. § 2.309(f)(2)(i)-(iii). *See also* 10 C.F.R. § 2.309(c)(1).

[6] *Private Fuel Storage, LLC* (ISFSI), CLI-00-21, 52 NRC 261, 265 (2000).

[7] LBP-04-15, 60 NRC at 90.

Licensing Board rejected this contention for failure to set forth the specific factual or legal basis, as required by 10 C.F.R. § 2.309(f)(1)(v).[8] The Board further found that CCAM had not shown how its allegations may be related to the potential detrimental effects of aging[9] -- which is, after all, the issue that essentially defines the scope of this (and all other) *license renewal* proceedings.[10] Our license renewal inquiry is narrow. It focuses on "the potential impacts of an additional 20 years of nuclear power plant operation,"[11] not on everyday operational issues. Those issues are "effectively addressed and maintained by ongoing agency oversight, review, and enforcement."[12]

We have reviewed the record here and conclude that it fully supports the Board's determinations on Contention I. We therefore reject CCAM's appeal of the Board's ruling that Contention I is inadmissible. We also reject this portion of CCAM's appeal on an additional procedural ground -- the appeal does not even challenge the Board's ruling that Contention I falls outside the scope of this proceeding.[13] CCAM's failure to challenge this last ruling is, in and of itself, sufficient justification to reject CCAM's appeal as to Contention I. This is *not* to say, however, that we take lightly assertions such as those set forth in Contention I. We don't. We are saying merely that a license renewal proceeding is not the proper forum for the NRC to

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[8] *Id.* at 90-91.

[9] *Id.* at 92.

[10] *See* "Notice of Acceptance for Docketing of the Applications and Notice of Opportunity for Hearing Regarding Renewal of Facility Operating License Nos. DPR-65 and NPF-49," 69 Fed. Reg. 11,897 (March 12, 2004), defining the scope of the instant proceeding. *See generally Florida Power and Light Co.* (Turkey Point Nuclear Generating Plant, Units 3 and 4), CLI-01-17, 54 NRC 3, 7 (2001); Final Rule, "Nuclear Power Plant License Renewal; Revisions," 60 Fed. Reg. 22,461 (May 8, 1995).

[11] *Turkey Point*, CLI-01-17, 54 NRC at 7.

[12] *Id.* at 9.

[13] *See* Notice of Appeal, undated but filed Aug. 9, 2004, ("First Appeal") at 2-4.

consider operational issues. If CCAM has information supporting its claim that Millstone's operation has caused "human suffering on a vast scale," its remedy would not be a narrowly-focused license renewal hearing, but a citizen's petition under 10 C.F.R. § 2.206.

In Contention II, CCAM argued that Millstone Units 2 and 3 are "terrorist targets of choice."[14] The Licensing Board concluded that this contention was inadmissible for failure to satisfy the requirements of 10 C.F.R. § 2.309(f)(1)(iii) (requiring that a contention be within the scope of the proceeding), and also for failure to provide supporting documentation.[15] We again concur in the Board's view. We draw particular attention to our ruling just two years ago that "contentions related to terrorism are beyond the scope of [a license renewal] proceeding."[16] On appeal, CCAM cites no authority to the contrary, offering instead only general references to the "911 Commission" Report and unidentified statements in the media.[17] This does not come close to satisfying our requirement to demonstrate clear error or abuse of discretion. As with the health-related concerns expressed in Contention I, we want to emphasize that security issues at nuclear power reactors, while vital, are simply not among the aging-related questions at stake in a license renewal proceeding. The Commission, as we have often reiterated, takes its security responsibilities seriously and has taken numerous regulatory steps to enhance security at nuclear power reactors.[18]

In Contention III, CCAM argued that Dominion currently lacks a valid National Pollutant Discharge Elimination System permit. The Board rejected this contention as outside both the

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[14] LBP-04-15, 60 NRC at 92.

[15] *Id.*

[16] *Duke Energy Corp.* (McGuire Nuclear Station, Units 1 and 2; Catawba Nuclear Station, Unit 1 and 2), CLI-02-26, 56 NRC 358, 363 (2002).

[17] First Appeal at 4-6.

[18] *Riverkeeper, Inc. v. Collins*, 359 F.3d 156, 160-62 & nn.4-6 (2d Cir. 2004).

scope of the license renewal proceeding and the jurisdiction of the Licensing Board.[19] We agree with the Board. On appeal, CCAM does not challenge the correctness of the Board's "scope" ruling.[20] This contention has nothing whatever to do with aging-related issues, is beyond the scope of this proceeding, and is therefore inadmissible. Moreover, the NRC simply does not require a licensee to possess this particular permit.[21] Contention III is therefore also immaterial to this proceeding

In Contention IV, CCAM contended that the operations of Millstone Units 2 and 3 "have caused devastating losses to the indigenous Niantic winter flounder population" and that "continued operations [of the facility] will increase the severity of the environmental damage."[22] The Licensing Board declined to admit this contention for three reasons: CCAM's failure to take issue with the environmental provisions of Dominion's license renewal application by pointing out what portion is deficient; CCAM's failure to assert that Dominion failed to comply with the applicable NEPA regulation (10 C.F.R. § 51.53(c)(3)(ii)(B)); and CCAM's failure to provide any expert opinion or reference to substantiate its "general allegation" that Units 1 and 2 "somehow played a material role in the flounder population decline."[23]

On appeal, CCAM challenges none of these three rulings, and instead merely makes general arguments about the flounder population's decline and CCAM's willingness to produce

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[19] LBP-04-15, 60 NRC at 93.

[20] *See* First Appeal at 6-7.

[21] *Philadelphia Elec. Co.* (Peach Bottom Atomic Power Station, Units 2 and 3), ALAB-216, 8 AEC 13, 58, *rev'd in part on other grounds*, CLI-74-32, 8 AEC 217 (1974).

[22] LBP-04-15, 60 NRC at 94, citing CCAM's Petition to Intervene, dated March 22, 2004, at 7, and CCAM's Amended Petition to Intervene, dated June 15, 2004, at 7.

[23] LBP-04-15, 60 NRC at 94, citing 10 C.F.R. § 2.309(f)(1)(v), (vi).

supporting documentation at a future hearing in this proceeding.[24] CCAM's general arguments do not come to grips with the Board's reasons for rejecting Contention IV and are not nearly enough to revive a contention that lacks support in the law or facts.[25] We see no basis to overturn the Board's well-taken rulings.

In Contention V, CCAM asserted that Units 2 and 3 "suffer technical and operational defects which preclude safe operation."[26] The Licensing Board, noting that CCAM had failed to cite even a "single specific deficiency" in the application,[27] rejected this contention as failing to satisfy the requirements of section 2.309(f)(1)(v) and (vi) to provide specificity and to set forth each deficiency and the reasons supporting petitioner's conclusion regarding that deficiency.[28] On appeal, CCAM again fails to dispute the Board's rationale[29] -- a fatal flaw in its appellate challenge to the Board's rejection of Contention V.

The Board also concluded that even CCAM's general arguments reflect a failure to read or analyze the license renewal application,[30] constitute an improper challenge to Commission

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[24] *See* First Appeal at 7-8.

[25] *See generally Advanced Med. Sys.* (One Factory Row, Geneva, Ohio 44041), CLI-94-6, 39 NRC 285, 297 (1994) ("The appellant bears the responsibility of clearly identifying the errors in the decision below and ensuring that its brief contains sufficient information and cogent argument to alert the other parties and the Commission to the precise nature of and support for the appellant's claims").

[26] LBP-04-15, 60 NRC at 95.

[27] *Id.* at 95.

[28] *Id.* at 96.

[29] *See* First Appeal at 8-10.

[30] LBP-04-15, 60 NRC at 95.

regulations,[31] and exceed the aging-management scope of this license renewal proceeding.[32] Based on our own review of the record, we fully concur in the Board's conclusions. We do not reach CCAM's belated argument that "the discussion of metal fatigue and its implications for the two reactors is closely mirrored, with no discussion of Unit 2's history of excessive unplanned shutdowns and, hence, their effect on aging."[33] This last argument was improperly raised for the first time on appeal. CCAM made no attempt to file this concern as a late-filed contention.[34] If CCAM can substantiate its new-arising argument, a petition under 10 C.F.R. § 2.206 would be the appropriate recourse.

Finally, CCAM argued in Contention VI that parts or all of Connecticut and Long Island "cannot be evacuated."[35] The Licensing Board declined to admit the contention because it did not relate to aging and therefore, as with many of CCAM's other claims, it lay beyond the scope of the license renewal proceeding.[36] In support, the Board cited our decision in *Turkey Point*, where we specifically held that emergency planning issues fall outside the scope of license renewal proceedings.[37] On appeal, CCAM does not attempt to distinguish *Turkey Point*; indeed, CCAM does not even cite the decision. Rather, CCAM challenges the adequacy of the

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[31] *Id.* at 96.

[32] *Id.* at 96.

[33] CCAM's August 9th Appeal at 11.

[34] *See Private Fuel Storage LLC* (ISFSI), CLI-04-22, 60 NRC 125, 139-40 (2004); *Sequoyah Fuels Corp.* (Gore, OK Cite), CLI-04-2, 59 NRC 5, 8 n.18 (2004); *Hydro Resources, Inc.* (2929 Coors Road, Suite 101, Albuquerque, NM 87120), CLI-00-8, 51 NRC 227, 243 (2000).

[35] 60 NRC at 96, citing CCAM Petition at 9.

[36] 60 NRC at 96-97.

[37] CLI-01-17, 54 NRC at 9, citing *Florida Power and Light Co.* (Turkey Point Nuclear Generating Plant, Units 3 and 4), CLI-01-17, 54 NRC 3, 9-10 (2001).

evacuation plan itself, based on vague references to "[c]urrent circumstances," "faithfulness to reality" and "common sensed" [*sic*].[38] We consider *Turkey Point* dispositive of this issue. The Licensing Board also explained that, in any event, the contention would have been inadmissible due to CCAM's failure to provide specific supporting facts or expert opinion -- a conclusion CCAM does not challenge on appeal.[39]

In sum, we believe that the Board in LBP-04-15 applied the correct standards for evaluating the proposed contentions and reached the correct result in refusing to admit each of them. We further believe that CCAM failed to show on appeal that the Board has either committed errors of law or abused its discretion.

II. Appeal of LBP-04-22

In its September 30th Appeal, CCAM first incorporates by reference its entire reconsideration request,[40] which we reject for the reasons given by the Board in LBP-04-22. CCAM also makes four specific arguments, which we address and reject below. Before examining each assertion, however, we rule generally that CCAM has failed to make the showing, required of all motions for reconsideration filed under 10 C.F.R. § 2.323(e), "of compelling circumstances, such as the existence of a clear and material error ..., which could not reasonably have been anticipated, that renders the decision invalid." CCAM likewise failed

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[38] First Appeal at 10.

[39] 60 NRC at 97, citing 10 C.F.R. § 2.309(f)(1)(vi).

[40] CCAM's Appeal, dated Sept 30, 2004, ("Second Appeal") at 1. The Commission does not favor incorporating pleadings by reference. *See Public Serv. Co. of NH* (Seabrook Station, Units 1 and 2), CLI-89-3, 29 NRC 234, 240-41 (1989). CCAM had been advised of this in the instant and prior proceedings. *See Dominion Nuclear Conn., Inc.* (Millstone Nuclear Power Station, Units 2 and 3), 2004 WL 1505510 (NRC) at *1 (June 8, 2004); 2003 WL 194528 (NRC) at *1 (Jan. 16, 2003).

to address the regulatory criteria for amending already-filed contentions,[41] which is essentially what CCAM seeks to do in its second appeal and motion for reconsideration. Notably, CCAM does not challenge on appeal the Board's ruling that CCAM did not attempt either to address those criteria or to demonstrate the prior unavailability of the material it submitted with its Motion for Reconsideration and Request for Leave to Amend Petition. We turn now to CCAM's four specific arguments.

First, CCAM argues that the Licensing Board "exalted form over substance" in rejecting the information supporting CCAM's Petition. In particular, CCAM complains that the Licensing Board rejected "without proper basis" the proffered expert testimony of Dr. Ernest Sternglass and Joseph Mangano, as well as the proffered testimony of Cynthia Besade.[42] These three affidavits accompanied CCAM's August 9th Request for Reconsideration and Motion to Amend its Petition. The Licensing Board denied CCAM's motion to amend, citing the relevant standards for amending contentions.[43] Specifically, the Board noted that CCAM did not attempt to demonstrate that the new information was "not previously available," "materially different from information previously available," or that, as a result of earlier unavailability, CCAM's request to amend was timely submitted.[44]

CCAM never explains on appeal *why* it believes these Licensing Board determinations were erroneous. We do not believe that the Board erred. The Board applied the proper regulatory criteria and reached what we consider the correct result. We also agree with the Licensing Board statement in LBP-04-22 that CCAM's filings in this proceeding "failed to

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[41] 10 C.F.R. § 2.309(f)(2).

[42] Second Appeal at 1-2.

[43] *See* LBP-04-22, 60 NRC at __, slip op. at 6.

[44] *Id.*, slip op. at 7.

demonstrate even a modicum of the necessary discipline and preparedness" required by the contention admissibility rules.[45]

Next, CCAM claims that the Board improperly accepted the truth and accuracy of Dominion's positions regarding environmental and marine effects and validity of necessary permits. CCAM claims to have offered proof to the contrary.[46] CCAM is presumably referring here to the Board's rulings on Contentions III and IV -- relating to pollution discharge permits and to the local flounder population -- and appears to believe that the Board rejected these two contentions on their merits. We disagree. The Licensing Board's rejection of Contentions III and IV had nothing to do with their merits but rested instead on the conclusions that they fell outside the scope of a license renewal proceeding and lacked sufficient documentary, expert or factual backing to meet our threshold requirements for admitting contentions for hearing.[47] The Board made these holdings without any reference to the material supporting the license renewal application, but rather on the basis that the proposed contentions were deficient on their face.

CCAM next raises what appears to be a brand new contention -- namely, that it "established" that Units 2 and 3 cannot be shut down safely "because [their] shutdowns release unsafe levels of radioisotopes into the environment."[48] CCAM did not, however, attempt to satisfy the requirements for submitting late-filed contentions. Even if, as the NRC Staff suggests,[49] CCAM intended this argument to support the admissibility of Contention I (regarding

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[45] *Id.*

[46] Second Appeal at 2.

[47] 10 C.F.R. § 2.309(f).

[48] Second Appeal at 2-3.

[49] NRC Staff's Brief in Opposition to Appeal by Connecticut Coalition Against Millstone of

(continued...)

Millstone's general health effects), CCAM still failed to address the Licensing Board's reasons for declining to admit that contention or for denying CCAM's motion to amend its Petition. This failure is fatal to CCAM's argument on appeal.[50]

Finally, CCAM asserts, presumably regarding Contention V (regarding past operational difficulties at Millstone), that the record in this proceeding demonstrates "that the licensee did not establish that it had evaluated the Millstone Unit 2 operational history of unplanned shutdowns as a discrete element in its application and therefore its analysis of metal fatigue and related issues is incomplete."[51] As noted by the Licensing Board, however, the license renewal application incorporated historical data regarding emergency shutdowns (and other transient events) when developing the fatigue analysis of the components required to be examined in the aging analysis, and CCAM never challenged this analysis.[52] CCAM has offered no basis on appeal for us to conclude that the Licensing Board was incorrect, either in this assessment or in its determination that CCAM Contention V was inadmissible for its failure, among other things, to challenge the application. (The language quoted at the beginning of this paragraph constitutes the entirety of CCAM's argument.)

III. CCAM'S LEGAL REPRESENTATION

Finally, we join the Licensing Board in expressing displeasure at the CCAM attorney's consistent disregard for our procedural rules.[53] As we noted just last year when criticizing

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[49](...continued)
LBP-04-15 and LBP 04-22, dated Oct. 18, 2004, at 7.

[50] *See Advanced Med. Sys.*, CLI-94-6, 39 NRC at 297, quoted *supra* note 25.

[51] Second Appeal at 3.

[52] LBP-04-15, 60 NRC at 95.

[53] The Board's two orders are riddled with expressions of frustration at CCAM counsel's repeated failures to comply with this agency's procedural rules. In the interest of brevity,
(continued...)

CCAM's same counsel for similar dereliction, she is "no stranger[] to the NRC adjudicatory process." This is her fifth NRC adjudication since 1999,[54] so she cannot credibly claim ignorance of our practices and procedures. As the Board's two orders in this proceeding and our own order today make clear, CCAM's attorney has repeatedly failed to provide support at the hearing for her client's contentions, as required under section 2.309(f) of our rules of practice and procedure.[55] Further, the record in this proceeding indicates that CCAM's attorney has likewise ignored numerous other Commission adjudicatory procedures. Nor has her disregard for our procedures been limited to this proceeding. She has a similar record in four

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[53](...continued)
however, we cite only the following handful as examples:

> "This is only one of several examples in which CCAM has ... provided little or no sources or specificity so as to warrant admission of a contention. Such lack of care is unjustifiable, notwithstanding counsel representing CCAM on a pro bono basis." LBP-04-15, 60 NRC at 91.
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> The Board referred to counsel's "poorly articulated and misapprehended reference" to a regulatory provision. *Id.* at 92.
>
> The Board referred to counsel's "failure to read or perform any meaningful analysis of the applications." *Id.* at 95.
>
> "CCAM has given no reason whatsoever ... why – despite having numerous opportunities to do so – it chose not to provide this information until now." LBP-04-22, 60 NRC at __, slip op. at 5.
>
> "CCAM has failed to demonstrate even a modicum of the necessary discipline and preparedness." *Id.*, slip op. at 7.
>
> The Board referred to "the careless disregard of relevant standards and procedures by CCAM counsel, and the disorganized manner in which the CCAM information has been presented." *Id.*, slip op. at 8.

[54] In addition to the instant proceeding, CCAM's attorney has participated in the following license amendment proceedings: Docket No. 50-336-OLA-2; Docket No. 50-423-LA-3; Docket Nos. 50-336-LA & 50-423-LA; and Docket Nos. 50-245-LT, 50-336-LT, & 50-423-LT.

[55] 10 C.F.R. § 2.309(f).

previous *Millstone* proceedings, where she has repeatedly failed to follow basic NRC adjudicatory procedures.[56]

CCAM's Counsel is informed that any further disregard of our practices and procedures in future adjudications will result in reprimand, censure or suspension pursuant to 10 C.F.R. § 2.314(c)(1) (providing for sanctions against any "representative of a party who refuses to comply with [the Commission's or the Licensing Board's] directions").[57] This ruling applies regardless of whether her representation before the NRC is as an attorney at law or otherwise. If such breaches occur during the threshold or hearing stage of an adjudication, we instruct the Board in that proceeding to exercise its authority under 10 C.F.R. § 2.319(g) and impose what it considers appropriate sanctions. We will do the same for any breach during the appellate stage. This warning does not mean that CCAM or its counsel is unwelcome at future NRC proceedings, but only that they must participate according to our rules.

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[56] *See*, *e.g.*, *Connecticut Coalition Against Millstone v. NRC*, 2004 WL 2309754 at *1-*2 (2d Cir. Oct. 14, 2004); *Dominion Nuclear Conn., Inc.* (Millstone Nuclear Power Station, Unit No. 2), CLI-03-14, 58 NRC 207 (2003), *reconsid'n denied*, CLI-03-18, 58 NRC 433 (2003), *aff'g* LBP-03-12, 58 NRC 75, 93-94 (2003), *petition for review denied sub nom. Connecticut Coalition Against Millstone v. NRC*, *supra*; *Dominion Nuclear Conn., Inc.* (Millstone Nuclear Power Station, Units 2 and 3), CLI-01-24, 54 NRC 349 (2001), *reconsid'n denied*, CLI-02-1, 55 NRC 1 (2002), *aff'g* LBP-01-10, 53 NRC 273 (2001); *Dominion Nuclear Conn., Inc.* (Millstone Nuclear Power Station, Unit 3), CLI-00-18, 52 NRC 129 (2000).

[57] Federal courts have imposed sanctions on parties who repeatedly disregard court orders or procedural rules. *See*, *e.g.*, *Velazquez-Rivera v. Sea-Land Serv., Inc.*, 920 F.2d 1072, 1076-77 (1st Cir. 1990); *Yusov v. Yusuf*, 892 F.2d 784, 787 (9th Cir. 1989).

CONCLUSION

For the reasons set forth above, we affirm LBP-04-15 and LBP-04-22 in all respects, deny CCAM's two appeals, and terminate this proceeding.

IT IS SO ORDERED.

For the Commission

/RA/

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, Maryland,
this 8th day of December, 2004.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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DOMINION NUCLEAR CONNECTICUT, INC.	)	Docket Nos. 50-336-LR and 50-423-LR
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(Millstone Nuclear Power Station, Unit Nos. 2 and 3)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing COMMISSION MEMORANDUM AND ORDER (CLI-04-36) 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.

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

Administrative Judge
Paul B. Abramson, Chair*
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: pba@nrc.gov

Administrative Judge
Ann Marshall Young*
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: amy@nrc.gov

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
E-mail: rfc1@nrc.gov

Brooke D. Poole, Esq.*
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: bdp@nrc.gov

Nancy Burton, Esq.*
147 Cross Highway
Redding Ridge, CT 06876
E-mail: nancyburtonesq@aol.com

Docket Nos. 336/423-LR
COMMISSION MEMORANDUM AND ORDER
(CLI-04-36)

Lillian M. Cuoco, Esq.*
Senior Counsel
Dominion Resources Services, Inc.
Rope Ferry Road
Waterford, CT 06385
E-mail: lillian_cuoco@dom.com

David R. Lewis, Esq.*
ShawPittman, LLP
2300 N Street, NW
Washington, DC 20037-1128
E-mail: david_lewis@shawpittman.com

Paul B. Eccard*
First Selectman, Town of Waterford
15 Rope Ferry Road
Waterford, CT 06385-2886
E-mail: selpbe@waterfordct.org

Robert A. Avena, Esq.
Town Attorney for Waterford, CT
Kepple, Morgan & Avena, P.C.
Box 3A Anguilla Park
20 South Anguilla Road
Pawcatuck, CT 06379

Thomas V. Wagner
AICP Planning Director
Town of Waterford
15 Rope Ferry Road
Waterford, CT 06385

Ralph Bunge
NRC Proceedings Representative for
Waterford, CT
510 Carr Avenue
Rockville, MD 20850

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 8th day of December 2004