

# COUNTY OF SUFFOLK

DOCKETED  
USNRC



March 18, 2005 (8:00am)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

STEVE LEVY  
SUFFOLK COUNTY EXECUTIVE

CHRISTINE MALAFI  
COUNTY ATTORNEY

DEPARTMENT OF LAW  
ADDRESS ALL COMMUNICATIONS  
IN THIS MATTER TO:

March 23, 2005

Michael C. Farrar, Chief  
Peter S. Lam, Administrative Judge  
Alan S. Rosenthal, Administrative Judge  
Atomic Safety & Licensing Board Panel  
Mail Stop T-3F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Re: In the Matter of Dominion Nuclear Connecticut Inc.  
(Millstone Power Station, Units 2 & 3)  
Docket Nos. 50-336, 50-423, ASLBP No. 05-837-01-LR  
Suffolk County's Reply and Request for Waiver of Commission Regulations –  
Dominion Nuclear Connecticut's Response and NRC Staff Motion to Strike

Honorable Sirs:

This letter is sent to address the issue of the delay in the County's Reply. The delay of three (3) days was inadvertent and poses no prejudice to the position of Dominion Nuclear Connecticut, Inc. I take issue with Dominion's Nuclear Connecticut's characterization of the delay as a "disregard" of Nuclear Regulatory Commission (hereinafter, "N.R.C.") adjudicatory procedures worthy of sanctions. The papers should neither be dismissed, nor stricken.

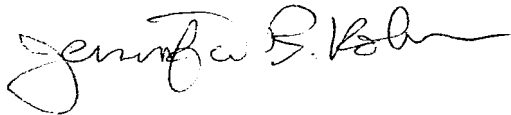
Moreover, the County's request for a waiver of regulation contained in 10 C.F.R. §50.47(a)(1) is directly related to the argument raised initially by the County's Petition, that the subject regulation did not protect adequately public safety and that the County's claims on the health and safety issues should be heard. While the County may not have cited the proper procedural regulation for a waiver in the Petition, the argument for not applying the regulation in this proceeding was clearly raised at that time. In any event, Dominion Nuclear Connecticut and the N.R.C. Staff have now submitted papers that answered the County's Request for a Waiver, and thus, have not been prejudiced by the County's request.

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Michael C. Farrar, Chief

Furthermore, it does not appear that any party will be prejudiced by the delay, since the subject licenses do not expire for many years. I respectfully ask that the issues in the County's Petition be decided on the merits, despite the three (3) day delay. The issues concern public health and safety, issues central to the purpose of N.R.C. regulatory authority. The County of Suffolk should be granted intervenor status in this proceeding because the County represents the people of Suffolk County. Their concerns should not be dismissed on a procedural technicality. On this basis, I respectfully request that the Board excuse the delay and consider the County's papers as submitted.

Very truly yours,

Christine Malafi  
Suffolk County Attorney

A handwritten signature in black ink, appearing to read "Jennifer B. Kohn", written over a horizontal line.

By: Jennifer B. Kohn,  
Assistant County Attorney

cc: / Office of the Secretary, Rulemakings and Adjudication Staff, U.S.N.R.C.  
Office of the Commission Appellate Adjudication, U.S.N.R.C.  
David R. Lewis, Esq., Shaw Pittman LLP  
Lillian M. Cuoco, Esq., Millstone Nuclear Power Station  
Catherine L. Marco, Esq., Office of the General Counsel  
Margaret Bupp, Esq., Office of the General Counsel  
Brook D. Poole, Counsel for NRC Staff