

September 2, 2008

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board

In the Matter of	)	
	)	
Dominion Nuclear Connecticut, Inc.	)	Docket No. 50-423-OLA
	)	
(Millstone Power Station, Unit 3)	)	ASLB No. 08-862-01-OLA
	)	

**DOMINION NUCLEAR CONNECTICUT’S REPLY TO  
CONNECTICUT COALITION AGAINST MILLSTONE AND NANCY BURTON’S  
RESPONSE TO BOARD’S REQUEST FOR LEGAL BRIEFS**

In accordance with the instructions of the Atomic Safety and Licensing Board (“Board”) in the above captioned proceeding, see Memorandum and Order (Requesting Legal Briefs from CCAM, Dominion, and the NRC Staff) (August 14, 2008), Dominion Nuclear Connecticut, Inc. (“Dominion”) hereby replies to “Connecticut Coalition Against Millstone and Nancy Burton Response to Atomic Safety and Licensing Board Panel’s Memorandum and Order Dated August 14, 2008 Requesting Legal Briefs and Request for Continuing Waiver of E-Filing Requirements” (“CCAM Response”), which Connecticut Coalition Against Millstone and Nancy Burton (“Petitioners”) transmitted by electronic mail on August 25, 2008.

Only a brief reply to the CCAM Response is warranted. Petitioners have clearly misinterpreted the effect of the Commission Secretary’s Order dated August 11, 2008 (“Order”), in which the Commission referred to the Board, “for any action it deems appropriate,” the “Connecticut Coalition Against Millstone and Nancy Burton Revised Motion for Leave to File Their New and/or Amended Contentions Based on Receipt of New Information and for

Continuing Waiver of Electronic Filing” (“Motion”). Order at 1. The Order also directed that any further pleadings related to the Motion be addressed to the Board. Id.

The CCAM Response interprets the Order as “act[ing] to keep the record open notwithstanding the Commission’s denial of the petitioners’ appeal.” CCAM Response at 3, footnote omitted. Petitioners provide no basis for this interpretation, which is nowhere supported by the text of the Order and is inconsistent with the terminated status of the proceeding on Dominion’s application for a stretch power uprate for Millstone Power Station Unit 3. That termination was effectuated by the granting of the application by the Staff, the Board’s explicit termination of the adjudicatory proceeding sought to be initiated by Petitioners, and the Commission’s dismissal of CCAM’s appeal from the Board’s decision. LBP-08-09, 67 N.R.C. \_\_\_, slip op. at 34 (June 4, 2008); CLI-08-17, 68 N.R.C. \_\_\_ (Aug. 13, 2008).<sup>1</sup>

Indeed, as explained in Dominion’s Brief in Response to Connecticut Coalition Against Millstone and Nancy Burton Revised Motion for Leave to File New Contentions (Aug. 25, 2008) (“Dominion’s Brief”), there is no longer a proceeding in which Petitioners may intervene. The record of the stretch uprate proceeding is unquestionably closed. The Order did nothing to reopen the record or keep it open.

The rest of the positions presented in the CCAM Response are based Petitioners’ erroneous interpretation of the effect of the Order, and require no additional response.

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<sup>1</sup> Petitioners’ interpretation of the Order also runs counter to the Commission’s previous decision in Dominion Nuclear Connecticut, Inc. (Millstone Nuclear Power Station, Units 2 and 3), CLI-06-4, 63 N.R.C. 32, 35-36 & n.4 (2006).

Therefore, for the reasons set forth in Dominion's Brief, Petitioners' Motion should be denied.

Respectfully Submitted,

[Original Signed]

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Dated: September 2, 2008

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board

In the Matter of	)	
	)	
Dominion Nuclear Connecticut, Inc.	)	Docket No. 50-426-OLA
	)	
(Millstone Nuclear Power Station, Unit 3)	)	ASLB No. 08-862-01-OLA
	)	

**CERTIFICATE OF SERVICE**

I hereby certify that copies of “Dominion Nuclear Connecticut’s Reply to Connecticut Coalition Against Millstone and Nancy Burton’s Response to Board’s Request for Legal Briefs” were served on the persons listed below in accordance with the Commission E-Filing rule, which the NRC promulgated in August 2007 (72 Fed. Reg. 49,139), this 2<sup>nd</sup> day of September, 2008.

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