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September 16, 2008

Administrative Judge
William J. Froehlich, Chair
Atomic Safety and Licensing Board Panel
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U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Dr. Paul B. Abramson
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Administrative Judge
Dr. Michael F. Kennedy
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

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

Dear Administrative Judges:

On September 4, 2008, the Office of the Secretary referred to the Atomic Safety and Licensing Board (“Board”), for any action that the Board deems appropriate, “Connecticut Coalition Against Millstone and Nancy Burton's New Contentions and Request for Leave to Submit New Contentions Based on Receipt of New Information and Request for Continuing Waiver of E-Filing Requirements” (Aug. 27, 2008). We are writing to inform the Board that, because Dominion believes that the uprate proceeding is terminated, Dominion does not intend to respond to this filing unless and until directed to do so by the Board.

In its Memorandum and Order (Requesting Legal Briefs from CCAM, Dominion, and the NRC Staff) (Aug. 14, 2008) (“Memorandum and Order”), the

Board asked the parties to address 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”), which Petitioners had filed on August 7, 2008. In its Memorandum and Order, the Board posed four questions to the parties regarding the Motion. On August 25, 2008, Dominion and the Staff filed responses opposing the Motion and Petitioners’ request to be allowed to file new contentions in the above proceeding. 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”); NRC Staff’s Initial Legal Briefing on Board’s Questions (Aug. 25, 2008) (“Staff’s Brief”).

In its response to the Board’s Memorandum and Order, Dominion explained that the adjudicatory proceeding on the license amendment has been terminated, the license amendments have been issued, and Petitioners’ appeal of the Board’s decision has been denied. Dominion’s Brief at 3. Accordingly, there is no longer a proceeding in which Petitioners may intervene. *Id.* Dominion went on to note that, even if there were an existing proceeding in which Petitioners could intervene, Petitioners had made no attempt to address the standards required to reopen a closed record in an adjudicatory proceeding or the standards for late intervention. *Id.* Dominion further pointed out that, even if late filing of new contentions were still possible, Petitioners had provided no grounds to reopen this closed proceeding and have such contentions entertained. *Id.* Accordingly, their Motion should be denied. *Id.* The NRC Staff made essentially the same arguments. *See* NRC Staff’s Brief at 8-12.

In its reply to Petitioners’ brief in response to the Board’s Memorandum and Order, Dominion refuted Petitioners’ argument that the Secretary’s Order of August 11, 2008 in which the Commission referred to the Board Petitioners’ Motion had acted to keep the record of the uprate proceeding open notwithstanding the Commission’s denial of Petitioners’ appeal. Dominion pointed out that Petitioners have provided 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. Dominion Nuclear Connecticut’s Reply to Connecticut Coalition Against Millstone and Nancy Burton’s Response to Board’s Request for Legal Briefs (Sep. 2, 2008) at 2.

The Board has yet to rule on Petitioners’ Motion, and the legal issues raised by Petitioners’ August 27, 2008 Request to File New Contentions are same as those involved in the Motion.

Dominion respectfully submits that Petitioners' August 27 filing should be summarily denied for the same reasons their earlier Motion should be denied. Accordingly, Dominion will not file a response to Petitioners' August 27, 2008 Request to File New Contentions unless otherwise directed by the Board.

Sincerely,

/Signed Electronically by Matias F. Travieso-Diaz/

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
Before the Atomic Safety and Licensing Board

In the Matter of)	
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Dominion Nuclear Connecticut, Inc.)	Docket No. 50-423-OLA
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(Millstone Nuclear Power Station, Unit 3))	ASLB No. 08-862-01-OLA-BD01
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