

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSIONBEFORE THE COMMISSION

In the Matter of )  
 )  
 DOMINION NUCLEAR CONNECTICUT, INC. ) Docket No. 50-423-LA-3  
 (Millstone Nuclear Power Station, Unit No. 3 )  
 )

NRC STAFF'S RESPONSE TO THE MOTION  
OF THE NUCLEAR ENERGY INSTITUTE  
FOR LEAVE TO FILE AN AMICUS BRIEF

On February 27, 2002, the Nuclear Energy Institute ("NEI") filed a motion for leave to file a brief *amicus curiae*,<sup>1</sup> along with its proposed brief,<sup>2</sup> in response to the Commission's Orders of February 6, 2002, requesting briefs from the parties in four separate adjudicatory proceedings.<sup>3</sup> NEI's Motion seeks leave to file a brief concerning an issue that is now under review by the Commission -- *i.e.*, whether the Commission's responsibility under the National Environmental Policy Act of 1969 ("NEPA") requires consideration of intentional malevolent acts, such as those directed against the United States on September 11, 2001. The NRC Staff ("Staff") herewith responds to NEI's Motion.

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<sup>1</sup> See "Motion By the Nuclear Energy Institute for Leave to File an Amicus Brief in Response to the Commission's Memorandum and Orders Dated February 6, 2002, Regarding the Commission's Consideration of Potential Intentional Malevolent Acts" ("Motion"), dated February 27, 2002.

<sup>2</sup> See "Amicus Brief of Nuclear Energy Institute in Response to the Commission's Memorandum and Orders Dated February 6, 2002, Regarding the Commission's Consideration of Potential Intentional Malevolent Acts" ("Brief"), dated February 27, 2002.

<sup>3</sup> See (1) *Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), CLI-02-03, 55 NRC \_\_\_\_ (Feb. 6, 2002); (2) *Duke Cogema Stone & Webster* (Savannah River Mixed Oxide Fuel Fabrication Facility), CLI-02-04, 55 NRC \_\_\_\_ (Feb. 6, 2002); (3) *Dominion Nuclear Connecticut, Inc.* (Millstone Nuclear power Station, Unit No. 3), 55 NRC \_\_\_\_ (Feb. 6, 2002); and (4) *Duke Energy Corp.* (McGuire Nuclear Station, Units 1 & 2, and Catawba Nuclear Station, Units 1 & 2), CLI-02-06, 55 NRC \_\_\_\_ (Feb. 6, 2002).

In the Staff's view, NEI's Motion establishes that the issue under review by the Commission is of concern to NEI's members and to the nuclear energy industry, in general. In addition, it is apparent that the Commission's resolution of this issue may affect NEI's members' interests, in that the issue appears to have generic applicability to NRC licensees and license applicants other than those involved in the instant proceeding, and the resolution of this issue could affect other licensing proceedings in the future. Accordingly, the Staff does not object to NEI's filing of its *amicus* brief relating to this issue in the instant proceeding.

Respectfully submitted,

**/RA/**

Ann P. Hodgdon  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 8th day of March, 2002

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO THE MOTION OF THE NUCLEAR ENERGY INSTITUTE FOR LEAVE TO FILE AN AMICUS BRIEF," in the above captioned proceeding have been served on the following through deposit in the NRC's internal mail system, with copies by electronic mail, as indicated by an asterisk, or by deposit in the U.S. Postal Service, as indicated by double asterisk, with copies by electronic mail this 8th day of March, 2002:

Charles Bechhoefer, Chairman\*  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
(E-mail copy to cxb2@nrc.gov)

Dr. Charles N. Kelber\*  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
(E-mail copy to cnk@nrc.gov)

Dr. Richard F. Cole\*  
Administrative Judge  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
(E-mail copy to rfc1@nrc.gov)

Office of the Secretary\*  
ATTN: Rulemakings and Adjudications  
Staff  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
(E-mail copies to SECY@nrc.gov  
and HEARINGDOCKET@nrc.gov)

Michelle McKown, Esq.\*  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Mail Stop: T-3F23  
Washington, DC 20555-0001  
(E-mail copy to mrm@nrc.gov)

Office of the Commission Appellate  
Adjudication  
Mail Stop: 16-C-1 OWFN  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Lillian M Cuoco, Esq.\*\*  
Dominion Nuclear Connecticut, Inc.  
Millstone Power Station  
Building 475/5  
Rope Ferry Road (Route 156)  
Waterford, Connecticut 06385  
(E-mail copy to Lillian\_Cuoco@dom.com)

David A. Repka, Esq.\*\*  
Donald P. Ferraro, Esq.  
Winston & Strawn  
1400 I Street, N.W  
Washington, DC 20005-3502  
(E-mail copy to drepka@winston.com)

Nancy Burton, Esq.\*\*  
147 Cross Highway  
Redding Ridge, CT 06876  
(E-mail copy to  
nancyburtonsq@hotmail.com)

Diane Curran, Esq.\*\*  
Harmon, Curran, Spielberg & Eisenberg  
1726 M Street, N.W., Suite 600  
Washington, D.C. 20036  
(E-mail copy to  
dcurran@harmoncurran.com)

**/RA/**

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Ann P. Hodgdon  
Counsel for NRC Staff