

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	Docket No. 50-336
Dominion Nuclear Connecticut, Inc.	)	License No. DPR-65
(Millstone Power Station Unit 2)	)	EA-13-188

CONFIRMATORY ORDER MODIFYING LICENSE  
(EFFECTIVE IMMEDIATELY)

I.

Dominion Nuclear Connecticut, Inc. (DNC or Licensee) is the holder of Facility Operating License No. DPR-65 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to Title 10 of the *Code of Federal Regulations* (CFR) Part 50 on September 26, 1975. The license authorizes the operation of Millstone Power Station (Millstone) Unit 2 in accordance with conditions specified therein. Millstone Power Station Unit 2 is located in the vicinity of Waterford, Connecticut.

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation process which included one meeting on July 14, 2015 and two follow up teleconferences on July 16, 2015 and July 24, 2015.

II.

On May 23, 2013, the U.S. Nuclear Regulatory Commission's (NRC's) Office of Investigations (OI) completed an investigation to determine if DNC staff at Millstone deliberately violated NRC requirements in 10 CFR 50.59, "Changes, Tests, and Experiments," when implementing changes to documents related to the Millstone Unit 2 chemical and volume control

system (CVCS) charging pumps and spent fuel decay time limits. The investigation also evaluated whether DNC staff deliberately submitted inaccurate and incomplete information to the NRC pertaining to these changes.

Based on the evidence developed during this investigation, the NRC concluded that three apparent violations occurred, two of which were considered for escalated enforcement action. The first apparent violation (AV) involved changes made by DNC to Section 14.6.1 of the Millstone Unit 2 Updated Final Safety Analysis Report (UFSAR) that removed credit for the CVCS charging pump flow in the mitigation of the design basis accident involving the inadvertent opening of pressurizer power operated relief valves (PORVs), without obtaining prior NRC approval. The NRC found that willfulness was associated with this apparent violation. DNC does not agree that willfulness was associated with this apparent violation.

The second AV involved the failure by DNC to provide complete and accurate information to the NRC in reports and other documents pertaining to the aforementioned UFSAR change, including a failure to notify the Commission of information having significant implications for public health and safety. Willfulness was not associated with this apparent violation.

The third AV involved changes made by DNC to Chapter 9 of the Millstone Unit 2 UFSAR and Section 3/4.9.3 of the Technical Specification Bases that decreased the required amount of irradiated fuel decay time from 150 to 100 hours prior to fuel movement in the reactor vessel, without obtaining prior NRC approval. Willfulness was not associated with this apparent violation.

In a letter dated April 29, 2015, the NRC provided DNC the results of the investigation, informed DNC that escalated enforcement action was being considered for two of the three apparent violations, and offered DNC the opportunity to attend a predecisional enforcement conference or to participate in ADR in which a neutral mediator with no decision-making

authority would facilitate discussions between the NRC and DNC. The neutral mediator would assist the NRC and DNC in reaching an agreement, if possible. DNC chose to participate in ADR. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

### III.

In response to NRC's offer, DNC requested use of the NRC ADR process to resolve differences it had with the NRC. During that ADR process, a preliminary settlement agreement was reached the terms of which are set forth in Section IV below.

Based on those commitments, the NRC agreed not to take further enforcement action on the three apparent violations identified in the NRC April 29, 2015, letter.

On August 20, 2015, DNC consented to issuing this Confirmatory Order with the commitments, as described in Section IV below. DNC further agreed that this Confirmatory Order is to be effective upon issuance and that it has waived its right to a hearing.

I find that the DNC's commitments as set forth in Section IV are acceptable and necessary and conclude that with these commitments the plant's safety is reasonably assured. In view of the foregoing, I have determined that public health and safety require that DNC's commitments be confirmed by this Confirmatory Order. Based on the above and DNC's consent, this Confirmatory Order is effective upon issuance. By no later than thirty (30) days after the completion of the commitments in Section IV, DNC is required to notify the NRC in writing and summarize its actions.

#### IV.

Accordingly, pursuant to Sections 104b, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED THAT LICENSE NO. DPR-65 IS MODIFIED AS FOLLOWS:

##### Compliance.

1. Within sixty (60) calendar days of the date of this Confirmatory Order, DNC will:
  - a. Revise, as necessary, Standing Order 14-016 dated May 11, 2014, to incorporate applicable Millstone Unit 2 Technical Specifications (TSs); limiting conditions of operations (LCOs); actions; and surveillances that reflect the safety analysis of the inadvertent opening of the PORVs prior to implementation of Amendment No. 283. This revision of the standing order will be made available for NRC review prior to implementation.
  - b. Complete an operability evaluation for the use of charging pumps in accordance with Standing Order 14-016, as revised by paragraph 1.a., associated with the inadvertent opening of PORVs and make the operability evaluation available to NRC for review; and
  - c. Evaluate the effect of three pump charging pump operation (i.e., three charging pumps auto start and provide flow) with the current plant configuration. If the evaluation concludes no adverse effect, revised Standing Order 14-016 will be changed to require that three charging pumps auto start and provide flow. This evaluation will be made available for NRC review.

2. By no later than February 15, 2016, DNC will submit a license amendment request to the NRC addressing the use of charging pumps in the analysis of the inadvertent opening of PORVs. If DNC does not submit a license amendment request by February 15, 2016, the Millstone Unit 2 design and licensing basis for the operation of charging pumps to mitigate the inadvertent opening of PORVs that was in place prior to Amendment No. 283 (dated September 9, 2004) will be reinstated by this Confirmatory Order, and DNC will take all actions necessary to conform Millstone Unit 2 to the reinstated design and licensing basis.
3. DNC's Standing Order 14-016 (Rev. 0, dated May 11, 2014), as revised in accordance with paragraph 1 above, will remain in place until NRC makes a final determination on the license amendment request submitted under paragraph 2 above.
4. If the NRC denies the license amendment request submitted under paragraph 2 above, or the licensee withdraws the license amendment request, the Millstone Unit 2 design and licensing basis for the operation of charging pumps to mitigate the inadvertent opening of PORVs that was in place prior to implementation of Amendment No. 283 (dated September 9, 2004) will be reinstated by this Confirmatory Order, and DNC will take all actions necessary to conform Millstone Unit 2 to the reinstated design and licensing basis.
5. By no later than February 15, 2016, DNC will submit a license amendment request seeking NRC approval of the spent fuel pool heat load analysis and any associated technical specification changes. This will be treated as a high priority review by the NRC.

6. DNC's Standing Order 14-021 (Rev. 0 dated July 9, 2014) will remain in place until NRC makes a final determination on the license amendment request submitted under paragraph 5 above.
7. If the NRC denies the license amendment request submitted under paragraph 5 above, or the licensee withdraws the license amendment request, TS 3/4.9.3.1 in the Millstone Unit 2 license will be revised by this Confirmatory Order to require 150 hours of decay time before moving irradiated fuel from the reactor to the spent fuel pool, and changes made by Licensing Basis Document Change Request 10-MP2-007 (dated June 22, 2010) to Chapter 9 of the Millstone Unit 2 UFSAR and to the TS Bases will be replaced by the prior content of those documents. DNC will take all actions necessary to conform Millstone Unit 2 to the requirements of the revised TS and UFSAR.

#### Assessment.

8. By no later than June 30, 2016, DNC will complete a self-assessment of its 10 CFR 50.59 program and procedures (including applicability, screening and evaluations) including a review of procedures, implementation, initial training, continuing training, and safety review committee activities. A majority of the self-assessment team will be comprised of a combination of non-Dominion industry experts and peers. The assessment will also address the Millstone Nuclear Oversight organization's responsibilities and the effectiveness of the execution of those responsibilities regarding the 10 CFR 50.59 program.
  - a. DNC shall make available to the NRC, upon request, the results of the assessment and any corrective actions DNC will take to address the results.

- b. DNC will complete corrective actions resulting from findings of the assessment consistent with the requirements of the Millstone Corrective Action Program.
- 9. DNC has conducted two apparent cause evaluations to address the issues included in this Confirmatory Order.
  - a. The results of these evaluations will be made available to the NRC for review.
- 10. By no later than March 1, 2016, DNC will complete a common cause evaluation of 10 CFR 50.59 issues that have been identified after July 1, 2012, with emphasis on any underlying culture-related issues that specifically may exist in the Millstone Power Station Engineering and Licensing groups and the Facility Safety Review Committee. The team will include a member trained in cultural issues. Interviews of a sample of the staff members from the above groups will be included in the evaluation. In regard to this evaluation, DNC shall:
  - a. Make the results of the evaluation available to the NRC.
  - b. Communicate to Millstone Power Station employees the results of the evaluation within three (3) months of receiving the evaluation results.
  - c. Review the results of the common cause evaluation and initiate corrective actions as appropriate within 30 days of receiving evaluation results.

Extent of Condition.

- 11. By no later than June 30, 2016, DNC will complete a formal sampling program, using MIL Standard 105 or similar, of products (applicability determinations, screenings, and evaluations) completed using the DNC 10 CFR 50.59 programs and procedures.

- a. The reviewers conducting the sampling program will be third party independent reviewers.
- b. Applicability determinations, screenings, and evaluations will be sampled as separate populations.
- c. For each population, the sampling time period will begin in 2002 and end as of the date of this Confirmatory Order.
- d. DNC will enter any identified deficiencies into DNC's corrective action program.
- e. Pursuant to Section 3.3 of the NRC Enforcement Policy, the NRC will consider exercising enforcement discretion to refrain from issuing a Notice of Violation or civil penalty for any non-willful Severity Level II, III, or IV violation identified as part of the sampling program described above, if the violation meets all of the following criteria:
  - (1) the violation has the same or similar cause as the apparent violations of 10 CFR 50.59 that are the subject of this Confirmatory Order;
  - (2) the violation is a newly-found violation that occurred prior to issuance of this Confirmatory Order;
  - (3) the violation does not substantially change the safety significance or the character of the regulatory concerns arising out of the apparent violations that underlie this Confirmatory Order; and
  - (4) the violation is corrected, by both immediate corrective action(s) and long-term comprehensive corrective action(s), within a reasonable time following identification.



- f. The NRC will also consider discretion for any DNC-identified performance deficiencies that meet the criteria listed in paragraph 11.e and are categorized as a Green or White finding under the NRC's Reactor Oversight Program.

#### Communication.

12. By no later than thirty (30) calendar days after the issuance of this Confirmatory Order, DNC's Chief Nuclear Officer will issue a fleet-wide communication (written or recorded) to reinforce the importance of providing complete and accurate information to the NRC, including requirements for updating out-of-date information, and the potential consequences of a failure to comply with these requirements. The communication, whether written or recorded, and any associated materials or references, will be made available to the NRC.
13. By no later than December 31, 2016, DNC will provide a presentation at an industry forum to discuss the events that led to this Confirmatory Order, the lessons learned, and actions taken. The presentation and any associated material will be made available to the NRC.

#### Training.

14. DNC will review its plant access training and revise it as necessary to ensure that it includes training on compliance with NRC requirements, including, but not limited to, 10 CFR 50.5 and 50.9. Any revisions will be made available to the NRC.
15. Notwithstanding that NRC and DNC disagree about whether a willful violation occurred, DNC will develop and provide focused training to Dominion corporate Engineering and

Licensing personnel who perform work for Millstone and to DNC Engineering and Licensing personnel, to ensure awareness of the importance of complying with regulatory requirements, and the potential consequences of a failure to comply, including what constitutes a willful violation of NRC requirements. DNC will provide this training by April 1, 2016, and will repeat it 12 months after the initial training session. The training and any associated training materials will be made available to the NRC.

16. DNC will develop and provide focused training to Dominion corporate Engineering and Licensing personnel performing work for Millstone and to DNC Engineering and Licensing personnel, covering the requirements of 10 CFR 50.9, emphasizing the importance of providing complete and accurate information to the NRC and of informing the NRC promptly upon discovery of inaccurate information or omissions associated with pending NRC licensing actions or other information submitted to the NRC. DNC will provide this training by April 1, 2016. The training and any associated training materials will be made available to the NRC.

#### Other Considerations.

17. The NRC agrees not to pursue any further enforcement action relating to the notice of apparent violations (Case no. EA-13-188, Inspection Report 05000336/2015201, Office of Investigations Report No. 1-2012-008), dated April 29, 2015.
18. This Confirmatory Order will not be considered an escalated enforcement action by the NRC for future assessment of violations occurring at Millstone Power Station Unit 2.

19. In the event of the transfer of the operating license of Millstone Power Station Unit 2 to another entity, the commitments hereunder shall survive any transfer of ownership and will be binding on the new licensee.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

## V.

Any person adversely affected by this Confirmatory Order, other than DNC, may request a hearing within 30 days of issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at (301) 415-1677, to (1) request a digital ID

certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Electronic Filing Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. Further information on the Web-based submission form is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system

time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Electronic Filing Help Desk through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at (866) 672-7640. The NRC Electronic Filing Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the

provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person (other than DNC) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 30 days from the date of issuance without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

Dated at Rockville, Maryland, this 26<sup>th</sup> day of August 2015.

For the Nuclear Regulatory Commission.

***RA***

Scott A. Morris, Director  
Division of Inspection and Regional Support  
Office of Nuclear Reactor Regulation