Nuclear Information and Resource Service (NIRS), Beyond Nuclear, Public Citizen Energy Program and Maryland Public Interest Research Group (Joint Intervenors) hereby petition to intervene in the Combined Construction and License Application (COLA) by Calvert Cliffs 3 Nuclear Project LLC and UniStar Nuclear Operating Services LLC for the proposed Calvert Cliffs-3 nuclear reactor.

Contention #1: Contrary to the Atomic Energy Act and NRC regulations, Calvert Cliffs-3 would be owned, dominated and controlled by foreign interests.

The Atomic Energy Act plainly prohibits foreign ownership, control or domination of a nuclear power plant. The NRC’s Final Standard Review Plan on Foreign Ownership, Control, or Domination (August 31, 1999) additionally prohibits issuance of a power reactor license to an applicant if the Commission knows or has reason to believe that the applicant is an alien or is owned, controlled, or dominated by an alien or by a foreign corporation or foreign government.

Calvert Cliffs-3 would be owned, controlled and dominated by a foreign corporation and foreign government. This application, therefore, must be denied.
Discussion

Section 103(d) of the Atomic Energy Act 42 U.S.C. § 2133(d) plainly states:
No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to section 123, or except under the provisions of section 109. No license may be issued to an alien or any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public. Id. (emphasis added). Applicants Calvert Cliffs 3 Nuclear Project LLC and UniStar Nuclear LLC do not satisfy this statutory requirement.

Calvert Cliffs 3 Nuclear Project LLC is a wholly-owned subsidiary of Applicant UniStar Nuclear LLC. In turn, UniStar Nuclear LLC is owned 50% by the U.S. company Constellation Energy and 50% by the French company Electricité de France. As of December 31, 2007, Electricité de France was 84.85% owned by the Government of France (http://www.edf.com/html/RA2007/uk/pdf/ra2007Corp_05_va.pdf). (Exhibit 9)

In addition, EdF is the second largest shareholder in Constellation Energy, owning 9.51% of the company. Thus, EdF’s ownership stake in Calvert Cliffs-3 is based not only on its 50% of Calvert Cliffs-3. This additional stake in Constellation adds to EdF’s ability to dominate and control this project, and essentially pushes its ownership of Calvert Cliffs-3 above the 50% plateau. Even without this additional stake, EdF is the dominant and controlling partner, meaning that it runs afoul of NRC regulations on all counts for a foreign corporation.

1 Constellation Energy Form 10-K, page 6, Fiscal year ending December 31, 2007; filed with U.S. Securities & Exchange Commission, February 27, 2008 (Exhibit 8)
As stated above, EdF is 84.85% owned by the French government. In this case, the reactor chosen is to be designed and manufactured by another French firm, Areva, which is also more than 80% owned by the French government. Combined, this would give the French government an enormous stake in this reactor, if built, and an enormous influence over its construction and operation.


Electricité de France’s 2007 revenue was €59.6 billion or approximately $77 billion at current exchange rates (@ 1 Euro=1.3 dollars), EdF annual report: (http://www.edf.com/html/RA2007/uk/accueil.html). (Exhibit 10)

UniStar Nuclear has been capitalized with $350 million from EdF, with another $275 million expected to be furnished by EdF, and with $49 million in assets from Constellation Energy.³

Constellation Energy Form 10-K, page 6, Fiscal year ending December 31, 2007; filed with U.S. Securities & Exchange Commission, February 27, 2008 (Exhibit 8)

EdF is the much larger company—more than three times larger according to revenue—and has far more invested in this project than its junior partner Constellation Energy. Clearly EdF is the dominant and controlling partner in this relationship.

This scenario where a reactor is owned, controlled and dominated by both a foreign

³ Constellation Energy Form 10-K, page 6, Fiscal year ending December 31, 2007; filed with U.S. Securities & Exchange Commission, February 27, 2008 (Exhibit 8)
corporation and a foreign government is exactly the kind of scenario that the Atomic Energy Act and implementing NRC regulations on foreign ownership are designed to prevent.