

NUCLEAR REGULATORY COMMISSION

SOUTHERN NUCLEAR OPERATING COMPANY

SUPPLEMENTARY NOTICE OF HEARING AND OPPORTUNITY TO PETITION FOR LEAVE TO

INTERVENE ON AN EARLY SITE PERMIT FOR THE VOGTLE ESP SITE

Docket No. 52-011

This proceeding concerns the application dated August 14, 2006, filed by Southern Nuclear Operating Company (SNC, the Applicant), pursuant to Subpart A of 10 CFR Part 52 for an early site permit (ESP). The ESP application seeks approval for use of the existing Vogtle Electric Generating Plant site near Waynesboro, Georgia, for the possible construction of two new nuclear reactors. On October 12, 2006, a notice of hearing and opportunity for leave to intervene was published by the United States Nuclear Regulatory Commission (NRC, the Commission) in the *Federal Register* (71 FR 60195) in this proceeding. That notice specified that the Director, Office of Nuclear Regulator Regulation, NRC, will propose findings on issues pursuant to the Atomic Energy Act of 1954, as Amended, and the National Environmental Policy

Act of 1969, as Amended (NEPA). The notice also specified the scope of the hearing to be conducted by the designated Atomic Safety and Licensing Board (Board) and provided an opportunity for persons whose interests may be affected by the proceeding to petition for leave to intervene.

In response to the notice of hearing and opportunity to petition for leave to intervene, on December 11, 2006, the Center for a Sustainable Coast, Savannah Riverkeeper, Southern Alliance for Clean Energy, Atlanta Women's Action for New Directions, and Blue Ridge Environmental Defense League (collectively the Joint Petitioners) filed a timely request for hearing and petition to intervene contesting the SNC ESP application. On December 13, 2006, the Commission referred the petition to the Atomic Safety and Licensing Board Panel to conduct any subsequent adjudication. On December 15, 2006, the Chief of the Atomic Safety and Licensing Board Panel designated, for the purpose of conducting the proceeding, the following Board, G. Paul Bollwerk, III (Chair), Dr. Nicholas G. Trikouros, and Dr. James Jackson (71 FR 77071; December 22, 2006). In a March 12, 2007, issuance, finding that each of the Joint Petitioners had established the requisite standing to intervene in this proceeding and that they had submitted two admissible contentions concerning the SNC ESP application, the Board admitted them as parties to this proceeding. *See* Southern Nuclear Operating Co. (Early Site Permit for

Vogtle ESP Site), LBP-07-3, 65 NRC 237 (2006).

On August 16, 2007, SNC submitted to the NRC a supplement to its ESP application requesting authorization to engage in selected construction activities as defined by 10 CFR 50.10. As described by SNC, these activities would generally involve the “placement of engineered backfill and preparation of the Nuclear Island foundation base slab forms and reinforcing steel.” In light of the request for this additional authorization, the Commission herein supplements the findings and considerations set forth in the original notice of hearing on October 12, 2006, as follows:

The NRC staff will complete a detailed technical review of the application, including the supplement requesting authority to perform selected construction activities as defined by 10 CFR 50.10, and will document its findings in a safety evaluation report (SER) and an environmental impact statement (EIS). In addition, the Commission will refer a copy of the application to the Advisory Committee on Reactor Safeguards (ACRS) in accordance with 10 CFR 52.23, and the ACRS will report on those portions of the application that concern safety. In addition to the findings set forth in the initial notice of hearing, upon receipt of the ACRS report and completion of the NRC staff’s SER and EIS, the Director, Office of New Reactors, NRC, will propose findings on the following additional issues:

Supplementary Issues Pursuant to the Atomic Energy Act of 1954, as Amended

(1) Whether the applicable standards and requirements of the Act, and the Commission's regulations applicable to the activities for which the Applicant seeks authorization have been met (Safety Issue 3); (2) whether the Applicant is technically qualified to engage in the activities authorized (Safety Issue 4); and (3) whether issuance of the ESP, granting the Applicant's requested authorization, will provide reasonable assurance of adequate protection to public health and safety and will not be inimical to the common defense and security (Safety Issue 5).

Supplementary Issue Pursuant to the National Environmental Policy Act (NEPA) of 1969, as Amended

Whether, in accordance with the requirements of subpart A of 10 CFR Part 51, the ESP should authorize the Applicant to conduct the requested construction activities.

If, as related to the additional issues outlined above, the hearing is contested as defined by 10 CFR 2.4, the Board, in addition to the directions in the original notice of hearing, will consider Safety Issues 3, 4, and 5 and the issue pursuant to NEPA set forth above.

If, as to the additional issues outlined above, the hearing is not a contested proceeding as defined in 10 CFR 2.4, the Board, in addition to the direction given in the original notice of hearing, will determine without conducting a de novo review: Whether the application and the

record of the proceeding contain sufficient information, and the review of the application by the Commission's staff has been adequate to support affirmative findings on Safety Issues 3, 4, and 5, as proposed to be made by the Director, Office of New Reactors; and whether the review conducted by the Commission staff pursuant to NEPA has been adequate.

Regardless of whether the proceeding is contested or uncontested, the Board, in addition to complying with the provisions of the original notice of hearing, will: (1) determine whether the requirements of Section 102(2)(A), (C), and (E) of NEPA and subpart A of 10 CFR Part 51 have been met, with respect to the activities to be authorized; (2) independently consider the balance among the conflicting factors with respect to the activities to be authorized which is contained in the record of the proceeding, with a view to determining the appropriate action to be taken; and (3) determine whether the redress plan submitted by the Applicant will adequately redress the activities to be authorized.

In accordance with 10 CFR 2.309, any person whose interest may be affected by this proceeding and who desires to participate as a party with respect to the supplementary issues must file a written petition for leave to intervene and must specify the contentions which the person seeks to have litigated in the hearing. A petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be

affected by the results of the proceeding, provided however parties that have already been admitted to the proceeding not need address the factors enumerated in 10 CFR 2.309(d)(1)-(2). If not already a party to the proceeding, the petition must specifically state: (1) the name, address and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial or other interest in the proceeding; and (4) the possible effect of any decision or order that may be issued in the proceeding on the petitioner's interest.

Each contention must contain a specific statement of the issue of law or fact to be raised or controverted. A petitioner must also provide the following information with respect to each contention: (1) a brief explanation of the basis for the contention; (2) a concise statement of the alleged facts or expert opinions which support the petitioner's position on the issue and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue; and (3) sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. For each contention, the petition must demonstrate that the issue raised in the contention is within the scope of this proceeding and that the issue raised in the contention is material to the findings the NRC must make to support the action that is involved in this proceeding. A petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

A petition for leave to intervene must be filed in accordance with the December 15,

2006, issuance of the Chief of the Atomic Safety and Licensing Board Panel establishing procedures for submitting documents using the NRC Electronic Information Exchange or E-Submittal process. The accession number for the issuance is ML063520200. The issuance is also available through the NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp.

If any new participant to this proceeding believes they are unable to participate in this proceeding utilizing the electronic document formatting and/or filing processes outlined in the December 15, 2006, issuance, they may file a request for an exemption from the Licensing Board in conjunction with its first filing in this proceeding. Pursuant to the December 15, 2006, issuance, the provisions of 10 CFR 2.302(g)(2) and (3) of the Commission's proposed rule on electronic document filing and formatting shall govern such an exemption request (70 FR 74950, 74960; December 16, 2005). 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.

All such petitions must be filed no later than 60 days from the date of publication of this notice in the Federal Register. Non-timely filings will not be entertained absent a determination by the Board that the petition should be granted based upon a balancing of the factors specified in 10 CFR 2.309(c)(i)-(viii).

This supplementary notice does not affect the status of any person previously admitted as a party to this proceeding or provide any additional opportunity to any person to intervene on the basis of, or to raise matters encompassed within, the issues specified for hearing in the original notice of hearing published in the *Federal Register* on October 12, 2006 (71 FR 60195).

A copy of the SNC ESP application is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records are accessible from the Agency-wide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. The accession number for the application is ML071710055. The accession number for the August 16, 2007, supplement to the application is ML072330242. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room staff by telephone at 1-800-397-4209, (301) 415-4737 or by e-mail to pdr@nrc.gov. The application is also available to local residents at the Burke County Library

in Waynesboro, Georgia, and is available on the NRC Web page at

<http://www.nrc.gov/reactors/new-licensing/esp/vogtle.html>.

Dated at Rockville, Maryland this 9th day of November 2007.

For the Nuclear Regulatory Commission.

/ RA /

Annette L. Vietti-Cook,
Secretary of the Commission.