

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before the Licensing Board:

G. Paul Bollwerk, III, Chairman
Nicholas G. Trikouros
Dr. James F. Jackson

In the Matter of

SOUTHERN NUCLEAR OPERATING CO.

(Early Site Permit for Vogtle ESP Site)

Docket No. 52-011-ESP

ASLBP No. 07-850-01-ESP-BD01

February 4, 2009

In the Matter of

SOUTHERN NUCLEAR OPERATING CO.

(Vogtle Electric Generating Plant, Units 3 and 4)

Docket Nos. 52-025-COL and 52-026-COL

ASLBP No. 09-873-01-COL-BD01

February 4, 2009

MEMORANDUM AND ORDER
(Notice of Opportunity to Make
Oral or Written Limited Appearance Statements)

The Atomic Safety and Licensing Boards hereby give notice that, in accordance with 10 C.F.R. § 2.315(a), they will entertain oral or written limited appearance statements from members of the public in connection with the above-captioned proceedings in which, pursuant to 10 C.F.R. Part 52, applicant Southern Nuclear Operating Company (SNC) seeks (1) an early site permit (ESP) authorizing the siting of, and (2) a combined license (COL) authorizing it to construct and operate two new nuclear units employing the Westinghouse Electric Corporation (WEC) AP1000 advanced passive pressurized water reactor certified design. Proposed Units 3 and 4 would be located on the existing site near Waynesboro, Georgia, that currently houses

Vogtle Electric Generating Plant (VEGP) Units 1 and 2. Set forth below are descriptions of the matters at issue in these two proceedings about which members of the public may wish to comment, as well as an explanation of the process for providing an oral or written limited appearance statement.

A. Description of the VEGP ESP and COL Proceedings

1. VEGP ESP Proceeding

The VEGP ESP application involves various Atomic Energy Act (AEA)-related site safety and National Environmental Policy Act (NEPA)-related environmental protection matters, as well as the plan for coping with emergencies. The issues currently before the Board in the “contested” portion of the ESP proceeding that have been raised by Joint Intervenors¹ concern facility cooling system impacts on aquatic resources, implementing a dry cooling system as a design alternative to the currently proposed closed cooling water system, and the impacts of dredging the Savannah River to permit reactor components to be barged to the proposed new facilities during construction. An evidentiary hearing on these contested matters is scheduled to be conducted on March 16-19, 2009, at the Doubletree Hotel and Convention Center, 2651 Perimeter Parkway, Augusta, Georgia.

Additionally, in accord with the agency’s regulations, the ESP Board is scheduled to conduct a so-called “mandatory” or uncontested hearing on March 23-25, 2009, in the Auditorium at the Augusta Technical College, Waynesboro/Burke Campus, 216 Highway 24 South, Waynesboro, Georgia. During that hearing, the Board will consider whether, with respect to those safety and environmental matters associated with the SNC ESP application that are not the subject of contested issues properly raised by Joint Intervenors, the NRC staff

¹ Joint Intervenors in the ESP proceeding include 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.

performed an adequate AEA and NEPA review of the SNC application and made findings relative to that review with reasonable support in logic and fact. In that regard, the staff and/or applicant SNC, as the only parties to the ESP mandatory hearing, currently are slated to make presentations regarding the sufficiency of the SNC ESP application and the staff's final environmental impact statement in the following subject matter areas: water use impacts; radiological impacts; environmental impacts of alternatives; limited work authorization and site redress plan; deferrals to the COL process; seismic evaluation; groundwater impacts on safety-related structures; site emergency plan; permit conditions; and pending AP1000 design certification revisions.

Any issues in the VEGP ESP proceeding that are resolved in favor of SNC generally would not be subject to relitigation in the subsequent VEGP Units 3 and 4 COL proceeding, the focus of which is whether SNC should be authorized to construct and operate the two additional reactors at the VEGP site.

2. VEGP Units 3 and 4 COL Proceeding

As was noted above, a COL application requests agency authorization to both construct and conditionally operate a nuclear power plant. Consistent with NRC requirements in 10 C.F.R. Part 52, a COL application must contain information on some forty-five individual items, including a facility design description; a description and analysis of the facility's structures, systems, and components safety functions and severe accident prevention and mitigation performance; control and limitation of radioactive effluents and radiation exposures; and a description and analysis of facility measures addressing such matters as fire protection, pressurized thermal shock, station blackout, environmental qualification of electrical equipment, primary containment leakage rate testing, reactor vessel material surveillance, operator training, maintenance, quality assurance, fitness for duty, anticipated transients without scram, and

criticality accidents. The application must also describe the inspections, tests, analyses, and acceptance criteria (ITAAC) that are necessary to ensure that the plant has been properly constructed and will operate safely. If the application references a standard design certification, such as the AP1000, the applicant must successfully satisfy the ITAAC for the certified design and the site-specific design features prior to facility operations. Further, if the COL application references an ESP, as is the case with the Vogtle COL application, the applicant must demonstrate that the design of the facility is compatible with the ESP as granted.

The contested issues currently before the Board in the COL proceeding that have been raised by Joint Petitioners² concern the adequacy of SNC's license application in the face of pending WEC requests for NRC approval of revisions 16 and 17 to WEC's AP1000 certified design and the sufficiency of the SNC COL application provisions regarding low-level radioactive waste storage. Additionally, regardless of the admissibility of any of Joint Petitioners COL contentions, as is the case in the ESP proceeding, the agency must conduct a separate, mandatory hearing concerning the SNC COL application for proposed VEGP Units 3 and 4. That hearing, to which only SNC and the staff would be parties, would deal with matters other than those admitted for litigation before the COL Board and would provide the basis for required health and safety, environmental, and common defense and security findings associated with the application and the staff's AEA and NEPA reviews of the application. Under current agency policy, in contrast to the ESP mandatory hearing, the mandatory hearing for the VEGP Units 3 and 4 COL application will be conducted by the Commission (rather than a Licensing Board).

² Joint Petitioners in the COL proceeding include 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.

B. Date, Time, and Location of Oral Limited Appearance Statement Sessions

Oral limited appearance sessions regarding the VEGP ESP and COL proceedings will be on the following dates at the specified location and times:

1. DATE: Sunday, March 22, 2009 (if there is sufficient interest)
TIME: 3:00 to 5:00 p.m. Eastern Time (ET)
LOCATION: Augusta Technical College, Waynesboro/Burke Campus Auditorium
216 Highway 24 South
Waynesboro, Georgia
2. DATE: Monday, March 23, 2009 (if there is sufficient interest)
TIME: Evening Session – 7:00 to 9:00 p.m. ET
LOCATION: Same as Session 1 above

C. Participation Guidelines for Oral Limited Appearance Statements

Any person not a party, or the representative of a party, to the VEGP ESP or COL proceedings will be permitted to make an oral statement setting forth his or her position on matters of concern relating to either (or both) of the proceedings. Although these statements do not constitute testimony or evidence, they nonetheless may help the Licensing Board and/or the parties in their consideration of the issues in contested or mandatory hearing portions of these proceedings.

Oral limited appearance statements will be entertained during the hours specified above, or such lesser time as may be necessary to accommodate the speakers who are present. In this regard, if all scheduled and unscheduled speakers present at a session have made a presentation, the Licensing Board reserves the right to terminate the session before the ending times listed above. The Board also reserves the right to cancel the Sunday afternoon and/or Monday evening sessions scheduled above if there has not been a sufficient showing of public interest as reflected by the number of preregistered speakers.

Any member of the public who plans to attend the limited appearance sessions is strongly advised to arrive early to allow time to pass through any security measures that may be employed. Attendees are also requested not to bring any unnecessary hand-carried items, such as packages, briefcases, backpacks, or other items that might need to be examined individually. Items that could readily be used as weapons will not be permitted in the room where these sessions will be held. Also, during these sessions, signs no larger than 18" by 18" will be permitted, but may not be attached to sticks, held over one's head, or moved about in the room.

The time allotted for each limited appearance statement normally will be no more than five minutes, but may be further limited depending on the number of written requests to make an oral statement that are submitted in accordance with section D below and/or the number of persons present at the designated times to ensure everyone will have an opportunity to speak. In addition, in the case of the Monday evening session, although an individual who previously addressed the Licensing Board at the Sunday afternoon limited appearance session may request an opportunity to make an additional presentation, the Board reserves the right to defer such additional presentations until after it has heard from speakers who have not had an opportunity to make an initial presentation.

D. Submitting a Request to Make an Oral Limited Appearance Statement

A person wishing to make an oral statement who has submitted a timely written request to do so will be given priority over those who have not filed such a request. To be considered timely, a written request to make an oral statement must either be mailed, faxed, or sent by e-mail so as to be received by 5:00 p.m. Eastern Time on Friday, March 13, 2009. The request must specify the session (Sunday or Monday) during which the requester wishes to make an oral statement. Based on its review of the requests received by March 13, 2009, the Licensing

Board may decide that the Sunday afternoon and/or Monday evening sessions will not be held due to a lack of adequate interest in those sessions.

Written requests to make an oral statement should be submitted to:

Mail: Administrative Judge G. Paul Bollwerk, III
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Fax: (301) 415-5599 (verification (301) 415-6094)

Email: wen.bu@nrc.gov, emily.krause@nrc.gov, and paul.bollwerk@nrc.gov

E. Submitting Written Limited Appearance Statements

A written limited appearance statement may be submitted to the Board regarding these proceedings at any time. Such statements should be sent to the NRC Office of the Secretary using one of the methods prescribed below, with a copy sent to the Licensing Board Chairman using the same method at the mail/e-mail address or fax number listed above. If possible, the submitter should specify whether the comments are directed to the ESP or the COL proceeding.

Mail: Office of the Secretary
Rulemakings and Adjudications Staff
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Fax: (301) 415-1101 (verification (301) 415-1966)

E-mail: hearingdocket@nrc.gov

F. Availability of Documentary Information Regarding the Proceedings

The ESP and COL applications, as well as various important staff documents relating to the applications, are available on the NRC website at:

ESP: www.nrc.gov/reactors/new-reactors/esp/vogtle.html

COL: www.nrc.gov/reactors/new-reactors/col/vogtle.html

These and other documents relating to these proceedings also are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically from the publicly available records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC web site at www.nrc.gov/reading-rm/adams.html (the Public Electronic Reading Room).³ Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR reference staff by telephone at (800) 397-4209 or (301) 415-4737 (available between 8:00 a.m. and 4:00 p.m., ET, Monday through Friday except federal holidays), or by e-mail to pdr@nrc.gov.

G. Scheduling Information Updates

Any updated/revised scheduling information regarding the March 16-19, 2009 contested hearing sessions, the March 23-25, 2009 mandatory hearing sessions, or the March 22-23, 2009 limited appearance sessions can be found by calling (800) 368-5642, extension 5036 (available between 7:00 a.m. and 9:00 p.m. ET, Monday through Friday except federal

³ Some documents determined by the staff to contain "sensitive" information are publicly available only in redacted form; non-sensitive documents are publicly available in their complete form. In addition, some documents that may contain information proprietary to SNC are publicly available only in redacted form.

holidays), or (301) 415-5036 (available seven days a week, twenty-four hours a day) or on the NRC website at www.nrc.gov/public-involve/public-meetings/index.cfm.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD⁴

/RA/

G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

February 4, 2009

⁴ Copies of this memorandum and order were sent this date by the agency's E-Filing system to counsel for (1) applicant SNC; (2) Joint Petitioners/Intervenors; and (3) the staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
SOUTHERN NUCLEAR OPERATING CO.) Docket No. 52-011-ESP
)
)
(Early Site Permit for the Vogtle ESP Site))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER (NOTICE OF OPPORTUNITY TO MAKE ORAL OR WRITTEN LIMITED APPEARANCE STATEMENTS) have been served upon the following persons by Electronic Information Exchange.

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Docket No. 52-011-ESP
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Docket No. 52-011-ESP
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[Original signed by Linda D. Lewis]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 4TH day of February 2009

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
SOUTHERN NUCLEAR OPERATING CO.) Docket No. 52-025-COL
) and 52-026-COL
(Vogtle Electric Generating Plant, Units 3 and 4 -)
Combined Operating License))

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Docket No. 52-025 and 52-026-COL
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Docket No. 52-025 and 52-026-COL
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[Original signed by Linda D. Lewis]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 4TH day of February 2009