

NUCLEAR REGULATORY COMMISSION

[NRC-2008-0441]

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

Southern Nuclear Operating Co., et al.; Combined Licenses for Vogtle Electric Generating Plant, Units 3 and 4, and Limited Work Authorizations

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of hearing.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) will convene an evidentiary session to receive testimony and exhibits in the uncontested portion of this proceeding regarding the application of Southern Nuclear Operating Company for two combined licenses (COLs) seeking approval to construct and operate new nuclear power generation facilities at the Vogtle Electric Generating Plant, Units 3 & 4 (VEGP), as well as for two limited work authorizations (LWAs) to engage in selected construction activities. This mandatory hearing will concern safety and environmental matters relating to the proposed issuance of the requested COLs and LWAs.

DATES: The hearing will be held on September 27, 2011, from 9:00 a.m. (Eastern Daylight Time). For a schedule for submitting prefiled documents and deadlines affecting Interested

Government Participants, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Rochelle C. Bovol, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-1651; e-mail: Rochelle.Bovol@nrc.gov.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Commission hereby gives notice that, pursuant to Section 189a of the Atomic Energy Act, it will convene an evidentiary session to receive testimony and exhibits in the uncontested portion of this proceeding regarding the March 28, 2008, application of Southern Nuclear Operating Company, acting for itself and Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and the City of Dalton, Georgia, for two Title 10 of the *Code of Federal Regulations* (10 CFR) Part 52 combined licenses (COLs), seeking approval to construct and operate new nuclear power generation facilities at the existing Vogtle Electric Generating Plant (VEGP) site near Waynesboro, Georgia. This mandatory hearing will also encompass the applicant's October 2, 2009, request for two limited work authorizations (LWAs) to engage in selected construction activities as defined in 10 CFR 50.10. This mandatory hearing will concern safety and environmental matters relating to the proposed issuance of the requested COLs and LWAs, as more fully described below. Participants in the hearing are not to address any contested issues in their written filings or oral presentations.

MATTERS TO BE CONSIDERED

The matter at issue in this proceeding is whether the review of the application by the Commission's staff has been adequate to support the findings found in 10 CFR 52.97 and 10 CFR 51.107(a), for each of the COLs to be issued, and in 10 CFR § 50.10 and 10 CFR § 51.107(d), with respect to the LWAs. Those findings are as follows:

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

With respect to each COL: (1) whether the applicable standards and requirements of the Act and the Commission's regulations have been met; (2) whether any required notifications to other agencies or bodies have been duly made; (3) whether there is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of the Act, and the Commission's regulations; (4) whether the applicant is technically and financially qualified to engage in the activities authorized; and (5) whether issuance of the license will not be inimical to the common defense and security or the health and safety of the public.

With respect to the LWAs: (1) whether the applicable standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations applicable to the activities to be conducted under the LWAs, have been met; (2) whether the applicant is technically qualified to engage in the activities authorized; (3) whether issuance of the LWAs will provide reasonable assurance of adequate protection to public health and safety and will not be inimical to the common defense and security; and (4) whether there are no unresolved safety issues relating to the activities to be conducted under the LWAs that would constitute good cause for withholding the authorization.

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

With respect to each COL: (1) Determine whether the requirements of Sections 102(2)(A), (C), and (E) of NEPA and the applicable regulations in 10 CFR Part 51 have been met; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; (3) determine, after weighing the environmental, economic, technical, and other benefits against environmental and other costs, and considering reasonable alternatives, whether the combined license should be issued, denied, or appropriately conditioned to protect environmental values; and (4) determine whether the NEPA review conducted by the NRC staff has been adequate.

With respect to the LWAs: (1) Determine whether the requirements of Section 102(2)(A), (C), and (E) of NEPA and the regulations in Subpart A of 10 CFR Part 51 have been met, with respect to the activities to be conducted under the LWAs; (2) independently consider the balance among conflicting factors with respect to the LWAs, which is contained in the record of the proceeding, with a review to determining the appropriate action to be taken; (3) determine whether the redress plan will adequately redress the activities performed under the LWAs, should limited work activities be terminated by the holder or the LWAs be revoked by the NRC, or upon effectiveness of the Commission's final decision denying the COL application; and (4) determine whether the NEPA review conducted by the NRC staff for the LWAs has been adequate.

EVIDENTIARY UNCONTESTED HEARING

The Commission will conduct this hearing beginning at 9:00 a.m., Eastern Daylight Time (EDT) on September 27, 2011, at the Commission's headquarters in Rockville, Maryland. The hearing on these issues will continue on subsequent days, if necessary.

PRESIDING OFFICER

The Commission is the presiding officer for this proceeding.

SCHEDULE FOR SUBMITTAL OF PRE-FILED DOCUMENTS

No later than **September 12, 2011**, unless the Commission directs otherwise, the staff and the applicant shall submit a list of its anticipated witnesses for the hearing.

No later than **September 12, 2011**, unless the Commission directs otherwise, the applicant shall submit its pre-filed written testimony. The staff previously submitted its testimony on **August 9, 2011**.

The Commission may issue written questions to the applicant or the staff before the hearing. If such questions are issued, an order containing such questions will be issued no later than **August 30, 2011**. Responses to such questions are due **September 12, 2011**, unless the Commission directs otherwise.

INTERESTED GOVERNMENT PARTICIPANTS

No later than **August 26, 2011**, any interested State, local government body, or affected, Federally-recognized Indian Tribe may file with the Commission a statement of any issues or questions that the State, local government body, or Indian Tribe wishes the Commission to give

particular attention to as part of the uncontested hearing process. Such statement may be accompanied by any supporting documentation that the State, local government body, or Indian Tribe sees fit to provide. Any statements and supporting documentation (if any) received by the Commission using the agency's E-filing system¹ by the deadline indicated above will be made part of the record of the proceeding. The Commission will use such statements and documents as appropriate to inform its pre-hearing questions to the Staff and applicant, its inquiries at the oral hearing and its decision following the hearing. The Commission may also request, prior to **September 13, 2011**, that one or more particular States, local government bodies, or Indian Tribes send one representative each to the evidentiary hearing to answer Commission questions and/or make a statement for the purpose of assisting the Commission's exploration of one or more of the issues raised by the State, local government body, or Indian Tribe in the pre-hearing filings described above. The decision of whether to request the presence of a representative of a State, local government body, or Indian Tribe at the evidentiary hearing to

¹ The process for accessing and using the agency's E-filing system is described in the September 16, 2008, notice of hearing that was issued by the Commission for this proceeding. See Notice of Hearing and Opportunity To Petition for Leave To Intervene and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation on a Combined License for the Vogtle Electric Generating Plant Units 3 and 4 [73 FR 53446]. Participants who are unable to use the EIE, or who will have difficulty complying with EIE requirements in the time frame provided for submission of written statements, may provide their statements by electronic mail to hearingdocket@nrc.gov.

make a statement and/or answer Commission questions is solely at the Commission's discretion. The Commission's request will specify the issue or issues that the representative should be prepared to address.

States, local governments, or Indian Tribes should be aware that this evidentiary hearing is separate and distinct from the NRC's contested hearing process. Issues within the scope of contentions that have been admitted in a contested proceeding for a COL application are outside the scope of the uncontested proceeding for that COL application. In addition, while States, local governments, or Indian Tribes participating as described above may take any position they wish, or no position at all, with respect to issues regarding the COL application or the NRC Staff's associated environmental review that do fall within the scope of the uncontested proceeding (i.e., issues that are not within the scope of admitted contentions), they should be aware that many of the procedures and rights applicable to the NRC's contested hearing process due to the inherently adversarial nature of such proceedings are not available with respect to this uncontested hearing. Participation in the NRC's contested hearing process is governed by 10 CFR 2.309 (for persons or entities, including States, local governments, or Indian Tribes, seeking to file contentions of their own) and 10 CFR 2.315(c) (for interested States, local governments, and Indian Tribes seeking to participate with respect to contentions filed by others). Participation in this uncontested hearing does not affect a State's, local government's, or Indian Tribe's right to participate in the separate contested hearing process.

Dated at Rockville, Maryland, this 10th day of August 2011.

For the Nuclear Regulatory Commission.

/RA/

Andrew L. Bates,
Acting Secretary of the Commission.