

15504

RELATED CORRESPONDENCE

DOCKETED  
USNRC July 29, 1994UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

94 AUG -1 P3:19

Before the Atomic Safety and Licensing BoardOFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of	)	Docket Nos. 50-424-OLA-3
	)	50-425-OLA-3
GEORGIA POWER COMPANY,	)	
et al.	)	Re: License Amendment
	)	(Transfer to Southern
(Vogtle Electric Generating	)	Nuclear)
Plant, Units 1 and 2)	)	
	)	ASLBP No. 93-671-01-OLA-3

GEORGIA POWER COMPANY'S RESPONSE TO  
INTERVENOR'S SECOND REQUEST FOR ADMISSIONSI. INTRODUCTION

Georgia Power Company ("GPC") hereby responds to Intervenor's Second Request for Admissions to Georgia Power Company, dated July 1, 1994 ("Second Request for Admissions"). The parties agreed, with the Board's approval, that GPC's response to the Second Request for Admissions would be done in two steps. First, by July 29, 1994, GPC would respond to each of the statements of evidence cited in the Vogtle Coordinating Group ("VCG") report, dated February 9, 1994.<sup>1</sup> Second, by August 9, 1994, GPC would respond to the conclusions in both the VCG and OI reports.

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<sup>1</sup> This response addresses only those statements of evidence marked with an asterisk in the VCG report. The remaining statements of evidence, according to the VCG report at 1, are the same evidentiary statements that were cited in the NRC's Office of Investigations ("OI") Report of Investigation (Case No. 2-90-020R), dated December 20, 1993. GPC's response to those evidentiary statements can be found in Georgia Power Company's Response to Intervenor's First Request for Admissions, dated July 7, 1994.

15503

## II. GENERAL OBJECTIONS.

GPC objects to Intervenor's definition of "documents" in that the definition indicates that GPC must somehow divine what recorded material might be in the "possession, custody, or control of the Intervenor or any employees, representatives, attorneys, investigators, or others acting on his behalf." Second Request for Admissions at 6. GPC has interpreted this definition to apply only to "documents" in GPC's possession.

GPC objects to Instructions E and F of Intervenor's Request which require detailed information concerning every oral communication and person referred to in each of GPC's responses. Compliance with such instructions would be unduly burdensome and oppressive given that most of the responses refer to persons having oral communications. Furthermore, Intervenor is intimately familiar with these communications and the persons involved.

GPC also generally objects to Intervenor's Request to the extent that it requires GPC to identify and produce every document which supports GPC's answer to each request for admission. Compliance with this request would be unduly burdensome and oppressive given the number of evidentiary findings. Moreover, Intervenor is well acquainted with the documents relevant to such evidentiary findings and it is unlikely that any such documents have not already been produced to Intervenor among the nearly 60,000 pages of documentation made available to Intervenor in 1993. Nonetheless, without waiving this objection, in connection with any denial of an admission herein, GPC endeavored to identify and produce any documents which it reasonably believes is not among the documents previously produced to Intervenor. No such documents were identified.

Furthermore, GPC generally objects to the identification, or disclosure, of those

communications and documents which are subject to the attorney work product doctrine or the attorney-client communication privilege. GPC has been defending actions initiated by Intervenor since mid-1990. In addition to this proceeding, such actions include (1) NRC inspections, an NRC Office of Investigations ("OI") investigation, and an NRC enforcement action respecting those allegations lodged by Intervenor in the Hobby/Mosbaugh Petition related to the diesel generator reporting issue, (2) three separate actions before the Department of Labor, (3) an investigation by the Department of Justice, and (4) an inquiry by a Congressional Subcommittee. GPC's legal counsel has been heavily involved in the defense of these actions and, as a result, has generated a large number of documents in preparation of such defenses. It would be oppressive and unduly burdensome and expensive for GPC to identify each and every one of such documents which are subject to either or both of (1) the attorney work product doctrine (i.e., they were prepared by legal counsel in anticipation of litigation and their disclosure would reveal the mental impressions of legal counsel), or (2) the attorney-client communication privilege (i.e., communications from GPC to its legal counsel made in confidence for the purpose of obtaining legal advice and counsel).

### III. RESPONSE TO REQUEST FOR ADMISSIONS

#### A. Response to Evidence for Allegation Nos. 1 and 2

1. Admit.
2. Admit.
3. Admit.
4. Admit.
7. Admit.

8. Admit.
9. Deny. Although this statement accurately reflects Mr. Cash's OI interview testimony, the actual intent of the start count information was to show that the diesels had been started a number of times with no significant problems. See GPC's Response to the NRC Staff's First Set of Interrogatories, dated August 9, 1993, at 12; Exhibit 12 at 12.
11. Admit.
12. Admit with the clarification that GPC believes Mr. Cash in fact included diesel starts in his count that occurred before the sensor calibration and logic testing were completed.
13. Admit with the clarification that the actual count referred to by Mr. Bockhold on April 19, 1990, included starts which occurred before completion of sensor calibration and logic testing. See Exhibit 11.
14. Admit.
15. Admit.
16. Admit with the clarification that GPC's basis also included all of the troubleshooting and control system functional testing described in NUREG-1410, Appendix J.
18. Admit.
20. Deny. This statement mischaracterizes the testimony of Mr. Bockhold in that it omits relevant information which supplies the context of the statement. Both Messrs. Bockhold and Cash understood that Mr. Cash

was to count the number of successful starts without significant problems.  
See Exhibit 12, Tr. 4-5 and GPC's Response to the NRC Staff's First Set of Interrogatories, dated August 9, 1993, at 12.

- 21. Admit.
- 41. Admit.
- 42. Deny. GPC admits that Mr. Cash does say that he gave Mr. Bockhold "every start that we have done." However, Mr. Cash's typed diesel start list, reflecting the results of his review, shows Mr. Cash included on the list (a) starts which were performed before the March 20, 1990 event, and (b) more starts than Mr. Cash reported to Mr. Bockhold as being successful starts. See Exhibit 36, Tr. 35 and Exhibit 11. In addition, GPC notes that Mr. Cash's statement was "I'm not sure if I found the failures or not." Tape 58.
- 59. Admit.
- 64. Neither admit nor deny. The interview notes of the OI investigator are an insufficient basis for GPC to determine either the accuracy or the truthfulness of this evidentiary finding.
- 65. Admit with the clarification that the evidentiary statement is based on the definition of successful starts provided in the August 30, 1990 letter.
- 66. Neither admit nor deny. GPC lacks sufficient information to confirm the truthfulness of this statement.

B. Responses to Evidence for Allegation No. 3.

1. Admit with the clarification that the date of LER 90-06 should be April 19, 1990.
7. Admit.
9. Admit.
16. Admit.
18. Admit.
19. Deny. The number of "consecutive successful starts subsequent to the completion of the CTP" as that term was defined by Mr. Bockhold on April 19, 1990, and conveyed to Shipman and Aufdenkampe, does not correlate with the diesel start numbers 10 and 12 cited in the June 29, 1990 cover letter. See Exhibit 36, Tr. 20-26.
20. Admit.
21. Admit.
22. Deny. GPC admits that the statement accurately summarizes Mr. Shipman's statements as recorded on Tape 58. However, GPC denies that the starts referred to in the April 9, 1990 letter actually included only those starts after instrument recalibration. See Exhibit 11.
23. Neither admit nor deny. GPC lacks sufficient information to determine the truthfulness of this statement.
24. Admit with the clarification that while Messrs. Shipman and Aufdenkampe did not know the exact starting point for Mr. Bockhold's count, they were

informed it was after instrument recalibration. See Exhibit 36, Tr. 20-26.

25. Admit.

26. Admit.

27. Admit.

28. Admit.

29. Admit.

30. Deny. In the referenced portion of Tape 58, Mr. Cash indicates that he began his count for EDG 1A with starts performed on March 20, 1990. However, Mr. Cash actually performed his review of the control room logs for successful starts by reviewing entries beginning before the March 20, 1990 event, and ending sometime shortly before April 9, 1990. See Exhibit 36, Tr. 35-36 and Exhibit 11.

31. Deny. GPC admits that Mr. Cash does say that he gave Mr. Bockhold "every start that we have done." However, Mr. Cash's typed diesel start list, reflecting the results of his review, shows Mr. Cash included on the list (a) starts which were performed before the March 20, 1990 event, and (b) more starts than Mr. Cash reported to Mr. Bockhold as being successful starts. See Exhibit 36, Tr. 35 and Exhibit 11. In addition, GPC notes that Mr. Cash's statement was "I'm not sure if I found the failures or not." Tape 58.

32. Deny. Aufdenkampe's statement, as recorded on Tape 58, was that Mr. Bockhold in fact told Mr. Shipman that the diesel start count for EDG 1B

"started after the third failure." Tape 58.

33. Neither admit nor deny. GPC lacks sufficient information to determine the truth of this statement. However, GPC notes that it is aware of only one LER draft where Mr. Mosbaugh expressed concern regarding its accuracy.
39. Admit with the clarification that Mr. Hairston had requested verification of the EDG start data and assumed it was performed. Exhibit 31, Tr. 46-51.

C. Responses to Evidence for Allegation No. 4.

1. Admit.
2. Admit.
3. Admit.
5. Admit.
6. Admit with the clarification that GPC has not reviewed the VCG's version of this transcript.
7. Admit.
11. Admit with the clarification that Mr. Frederick was also out of the office when Hairston placed this call. The call was received by the another SAER representative on-site.
15. Admit.
16. Admit.
17. Admit.



18. Admit with the clarification that the context of the evidentiary statements is lost due to the omission of other material information contained in the SAER report.
20. Admit with the clarification that Messrs. Bockhold and Cash believe they were in fact contacted during the course of the SAER audit.
21. Admit.
22. Admit.
25. Deny. The referenced draft cover letters to the June 29, 1990 revision to the LER do refer to the April 9, 1990 letter, contrary to this finding. See GPC's Section 2.206 Petition Response, dated April 1, 1991, Attachment 3, Exhibits 16-20.
26. Admit.
30. Admit.
34. Admit.
35. Deny. GPC agrees that Mr. Mosbaugh did express this viewpoint. However, GPC denies the truth of the statement because adequate information was not available to those counting diesel starts on April 19, 1990, and just prior to April 9, 1990, such that they were able to compile an accurate count. See Tape 57 and Exhibit 11.
36. Deny. GPC admits that Mr. Mosbaugh did express this viewpoint. However, GPC denies that personnel acted with either carelessness or negligence.

37. Deny. GPC admits that Mr. Mosbaugh did express this viewpoint. However, GPC denies the truth of the statement because it does not explain the reason the LER statement was incorrect. Tapes 57 and 58.
38. Admit.
39. Admit.
41. Deny. This statement fails to distinguish between Mr. Horton's initial response and his ultimate opinion. Exhibit 57, Tr. 19-30.
42. Admit.
43. Deny. GPC denies the truth of the statement because the information provided to Mr. Greene on June 29, 1990, by Mr. Mosbaugh conflicted with information provided by other knowledgeable participants such that it was not clear to Mr. Greene that the cover letter was deficient. Exhibit 57, Tr. 32-69.
44. Admit.
45. Admit.

D. Responses to Evidence for Allegation No. 5.

1. Admit.
3. Admit.
5. Admit.
21. Admit.
22. Admit.
24. Admit.

25. Admit with the clarification that Bockhold's statements, when reviewed in context, indicate that the particular reorganization of the August 30 letter under discussion by the PRB would not, in his opinion, improve upon the accuracy of the letter.
26. Admit.
27. Admit.
28. Admit.

E. Responses to Evidence for Allegation No. 6.

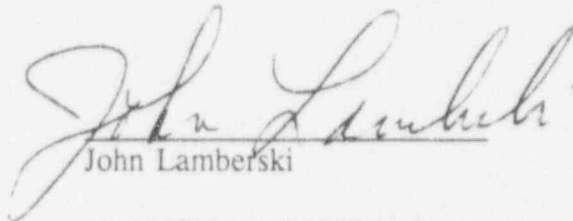
2. Admit.
3. Admit with the clarification that the inspection report was based on an historic view of air quality.
4. Admit.
6. Admit.
8. Admit.
9. Neither admit nor deny. GPC lacks sufficient information to determine the truth of the statement.

F. Responses to Evidence for Allegation No. 7.

1. Admit.
2. Admit.
3. Neither admit nor deny. GPC lacks sufficient information to determine the truth of the statement.
4. Admit.

Dated:

July 29, 1994



John Lamberski

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Counsel for Georgia Power Company

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

GEORGIA POWER COMPANY, et al.

(Vogtle Electric Generating Plant,  
Units 1 and 2)

Docket Nos. 90-424-OLA-3  
90-425-OLA-3

Re: License Amendment  
(Transfer to  
Southern Nuclear)

ASLEP NO. 93-671-OLA-3

AFFIDAVIT OF MARK J. AJLUNI

I, Mark J. Ajluni, being duly sworn, state as follows:

1. I am currently employed by Southern Nuclear Operating Company as Senior Project Engineer, Vogtle Project.

2. I have been expressly authorized to verify Georgia Power Company's Response to Intervenor's Second Request for Admissions. Specifically I am duly authorized to respond on behalf on the Company to the Second Request for Admissions for statements of evidence contained in the Nuclear Regulatory Commission's Vogtle Coordinating Group Report, dated February 9, 1994, which deny, admit with clarification, or neither admit nor deny requested Admissions not otherwise addressed by individual attestations.

I hereby certify that the statements and opinions in such responses are true and correct to the best of my personal knowledge and belief.

Mark J. Ajluni  
Mark J. Ajluni

Sworn to and subscribed  
before me this 29<sup>th</sup> day of  
July, 1994.

Mary N. Bentley  
Notary Public  
My commission expires:  
May 6, 1995

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	:	
	:	Docket Nos. 50-424-OLA-3
GEORGIA POWER COMPANY, et al.	:	50-425-OLA-3
	:	
	:	Re: License Amendment
(Vogtle Electric Generating Plant,	:	(Transfer to
Units 1 and 2)	:	Southern Nuclear)
	:	
	:	ASLBP NO. 93-671-OLA-3

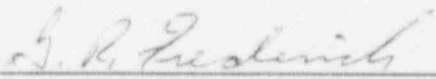
AFFIDAVIT OF G. R. FREDERICK

I, G. R. Frederick, being duly sworn, state as follows:

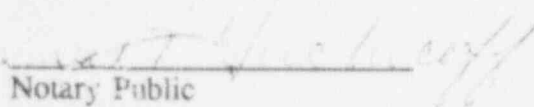
1. I am currently employed by Georgia Power Company as Manager, Maintenance, Vogtle Electric Generating Plant.
2. I am duly authorized to verify Georgia Power Company's Response to Intervenor's Second Request for Admissions, specifically the responses to statements of evidence contained in the Vogtle Coordinating Group Report, dated February 9, 1994, which deny, admit with clarification, or neither admit nor deny as follows:

Allegation No. 4: Nos. 11, 18

I hereby certify that the statements and opinions in such response are true and correct to the best of my personal knowledge and belief.

  
\_\_\_\_\_  
G. R. Frederick

Sworn to and subscribed  
before me this 2 day of  
July, 1994.

  
\_\_\_\_\_  
Notary Public

My commission expires:

~~Notary Public, Cobb County, Georgia.~~  
My Commission Expires January 12, 1993.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSIONBEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

GEORGIA POWER COMPANY, et al.

(Vogtle Electric Generating Plant,  
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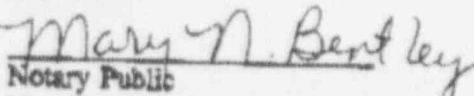
AFFIDAVIT OF MICHAEL W. HORTON

I, Michael W. Horton, being duly sworn, state as follows:

1. I am currently employed by Southern Nuclear Operating Company as Project Manager - Nuclear Technical Services.
2. I am duly authorized to verify Georgia Power Company's Response to Intervenor's Second Request for Admissions, specifically the responses to statements of evidence contained in the Vogtle Coordinating Group Report, dated February 9, 1994, which deny, admit with clarification, or neither admit nor deny as follows:

Allegation No. 4: No. 41

I hereby certify that the statements and opinions in such response are true and correct to the best of my personal knowledge and belief.

  
Michael W. HortonSworn to and subscribed  
before me this 29<sup>th</sup> day of  
July, 1994.  
Notary Public  
My commission expires:  
May 6, 1995

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USNRC

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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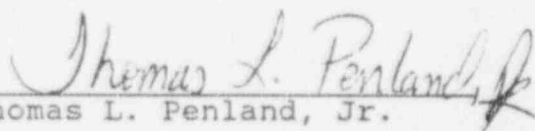
Before the Atomic Safety and Licensing Board

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of	)	Docket Nos. 50-424-OLA-3
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GEORGIA POWER COMPANY,	)	
et al.	)	Re: License Amendment
	)	(Transfer to Southern
(Vogtle Electric Generating	)	Nuclear)
Plant, Units 1 and 2)	)	
	)	ASLBP No. 93-671-01-OLA-3

CERTIFICATE OF SERVICE

I hereby certify that copies of Georgia Power Company's Response to Intervenor's Second Request for Admissions, dated July 29, 1994, were served by express mail service, upon the persons listed on the attached service list, this 29th day of July, 1994.

  
Thomas L. Penland, Jr.

Dated: July 29, 1994



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of  
GEORGIA POWER COMPANY,  
et al.

\* Docket Nos. 50-424-OLA-3  
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\*  
\*  
\* Re: License Amendment  
\* (Transfer to Southern  
\* Nuclear)  
\*  
\* ASLBP No. 93-671-01-OLA-3  
SERVICE LIST

Administrative Judge  
Peter B. Bloch, Chairman  
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