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INTERVENOR CORRESPONDENCE

DOCKETED
August 1, 1994UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

'94 AUG -2 P4:12

In the Matter of)

GEORGIA POWER COMPANY)
et al.,)(Vogtle Electric Generating)
Plant, Unit 1 and Unit 2))Docket Nos. 50-424-OLA-3
50-425-OLA-3Re: License Amendment
(transfer to Southern Nuclear)

ASLEP No. 93-671-01-OLA-3

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCHINTERVENOR'S NOTICE OF DEPOSITION OF NRC PERSONNEL

Intervenor, pursuant to 10 C.F.R. §2.720(h)(2)(i), hereby request that the Executive Director of Operations of the NRC make available for depositions by oral examination the NRC personnel identified below, no earlier than 20 days after the Board rules on the Intervenor's motions to compel the NRC to respond to Intervenor's second set of Interrogatories and First Request for Admissions filed August 1, 1994 but not before the NRC has responded to these discovery request if the Board so orders. These deposition will be conducted at the offices of Kohn, Kohn and Colapinto, P.C., 517 Florida Ave., N.W., Washington, D.C.

The NRC personnel whom Intervenor request be made available are identified below along with statements as to the relevance to this proceeding the information held by them and upon which Intervenor will inquire:

1) Ken Brockman and other NRC staff persons who communicated with GPC about the content of the April 9, 1990 presentation; and IIT members with information concerning the

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Executive Summary Vogtle Diesel Operability ("ESVDO") GPC provided to the IIT team in April of 1990. See Board Notification 94-10 for additional factual information concerning GPC issuance of the ESVDO (Note: Deposition testimony of Messrs. Williams and Aufdenkampe indicate that relevant data for 1990 concerning the Vogtle diesel Operability was intentionally deleted from the ESVDO because it failed to show that the diesels were reliable).

Intervenor specifically seeks to depose Mr. Brockman because he has information concerning his communication with GPC persons relative to the April 9, 1990 presentation; drafts of the April 9th letter transmitted by Mr. McCoy on or about April 5, 1990; and comments about the acceptability of the documentation needed to be presented at the April 9, 1990 conference to justify restart Plant Vogtle Unit 1 reactor (i.e., whether the ESVDO would be considered sufficient or whether additional data on diesel reliability would be necessary). Intervenor is unable to obtain this information elsewhere.

The witnesses identified in this section are requested to bring with them all materials in his/her immediate control or possession (or in the immediate control or possession of the agency) which concern or relate to the following:

- a. All documents concerning the receipt of the ESVDO;
- b. All documents related to any communication with GPC or SONOPCO concerning the scope or adequacy of material to be used during the April 9, 1990 presentation;

- c. All documents concerning the April 9, 1990 letter issued by GPC and/or the April 9, 1990 presentation.

2) Stewart Ebnetter, Region II Administrator. Intervenor requests the opportunity to depose Mr. Ebnetter to determine whether Mr. Hairston's testimony concerning conversations he allegedly had with Mr. Ebnetter is accurate or verifiable. During the course of deposing Mr. Hairston, factual information was revealed that Mr. Hairston's recollection of events was faulty inasmuch as he initially testified that he spoke to Mr. Ebnetter from his Birmingham office. Under cross-examination, Mr. Hairston admitted that he was in error inasmuch as he actually called Mr. Ebnetter from Plant Hatch after Notification of Unusual Event ("NUE") was transmitted to the NRC (Mr. Hairston's testimony is questionable based on numerous other factors, e.g., Mr. Hairston testified that he called within hours or a day of learning that the start numbers in a proposed revised LER had changed from a previously proposed LER, but the record indicates that the call occurred some seven (7) days later). Intervenor believes it is more than likely that Mr. Hairston's communication to Mr. Ebnetter from plant Hatch during the NUE concerned the NUE rather than changing number of starts in a draft revision to an LER and, as such, seeks to inquire into this matter with Mr. Ebnetter.

Intervenor also seeks to question Mr. Ebnetter about events occurring the April 9th presentation and the Regional

Administrator's observations concerning statements made about the diesel generator air quality and reliability.

The witnesses identified in this section are requested to bring with them all materials in his/her immediate control or possession (or in the immediate control or possession of the agency) which concern or relate to the following:

- a. All documents, including note pads; calendar entries; memorandum or compute files that in any way relate or concern the scope of communications between Mr. Ebnetter and Mr. Hairston between 4-9-90 and 12-31-90 (in particular communications occurring on June 6-14-90 from Plant Hatch);
- b. All documents related to any communication concerning the scope or adequacy of material to be used or used during the April 9, 1990 presentation.

3) Members of the Vogtle Coordinating Group, in both their official and individual capacities (including all necessary NRC Staff representative(s) who have the ability and knowledge to answer questions regarding every fact, finding, and conclusion of the Vogtle Coordinating Group's Analysis).

Intervenor asserts that deposing these individuals is necessary because they possess and have had access to the following information on matters relevant to this proceeding which is not available from any other party or persons outside of NRC Staff:

- a) The factual basis and reasoning employed to reach the conclusions set forth in the Vogtle Coordinating Group Analysis;

- b) They have direct technical information related to the underlying safety issues analyzed in the Group Analysis;
- c) Deposing the Vogtle Coordinating Group will allow Intervenor to assess the viability of the position taken by the Office of Investigations and will allow Intervenor to determine the validity of the Coordinating Group Analysis.

4) NRC Staff representative(s) who has/have the ability and Knowledge to answer questions regarding the NRC investigation conducted at the Grand Gulf facility with regard to any information which was gathered that in any way indicates that Mr. Ken McCoy did not or may not have the requisite character, competence, integrity or honesty to continue in that facility in a management position.

Intervenor asserts that deposing this individual(s) is necessary because he/she possess and have had access to the following information on matters relevant to this proceeding which is not available from any other source or party:

- a) Direct first hand review of matters related to Mr. McCoy's requisite character, competence, integrity and honesty to adhere to NRC regulations undertaken on behalf of the Commission;

b) An understanding of the issue and resolution of the issues related to Mr. McCoy's alleged wrongdoing.

5) Custodian of Records for the NRC produce the documents requested below.

The Custodian of Records and each and every witnesses identified above are further requested to bring with them all materials in their immediate control or possession (or in the immediate control or possession of the agency) which are within the scope of the documents requested below:

- 1) All documents created by, given to, and/or reviewed by the Vogtle Coordinating Group, including personal notes relating directly or indirectly to any of the issues regarding the Vogtle Coordinating Group analysis and its creation.
- 2) Any document reviewed by the witness in anticipation of testifying in this deposition;
- 3) All "documents" including any written, recorded or graphic matter, however produced or reproduced, of every kind and regardless of where located, including but not limited to any summary, schedule, memorandum, note, statement, letter, telegram, interoffice communication, report, diary, desk or pocket calendar or notebook, daybook, appointment book, pamphlet, periodical, work sheet, cost sheet, list, graph, chart, index, tape, record, partial or complete report of telephone or oral conversation, compilation, tape recordings made by Intervenor, tabulation, study, analysis, transcript,

minutes, and all other memorials of any conversations, meetings, and conferences by telephone or otherwise, and any other writing or recording which is in the possession, custody or control of the any and/or all members of the Vogtle Coordinating Group or any employees, representatives, attorneys, investigators, or others acting on behalf of the agency in regard to the Vogtle Coordinating Group Analysis.

6) The drafters and reviewers of the Notice of Violation dated May 9, 1994 issued to Georgia Power Company.¹

¹ Intervenor believes that it may not be ripe to commence these depositions until such time as the NOV is finalized or all Staff action is complete (i.e., until enforcement action is completed). Nonetheless, Intervenor provides notice of his need to conduct these depositions and requests that the appropriate witnesses be made available as soon as possible.

At this time Intervenor asserts that deposing these individuals may be necessary because they possess and have had access to the following information on matters relevant to this proceeding:

- a) The factual basis and reasoning for the issuance of the demands for information;
- b) The factual basis behind the Demands for Information.
- c) The factual basis and reasoning employed to reach the conclusions set forth in the NOV;
- d) The technical information related to the underlying safety issues analyzed in the NOV;
- e) Deposing the persons identified will allow Intervenor to assess the viability and validity of the NOV.

The scope of documents to be brought by these witnesses are to include all documents related to the issuance of the NOV; review of GPC's response to the NOV; and documents received from GPC concerning the NOV.

The depositions identified above shall continue until the witness has fully testified to all matters pertaining the issues for which the witness was called to testify; with respect to the documents produced by the witness; and with respect to all matters generally discoverable as background material and relevant to the contention that Georgia Power lacks character and competence.

Respectfully submitted,

Michael D. Kohn
Mary Jane Wilmoth
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Plant, Unit 1 and Unit 2))

OFFICE OF SECRETARY
Docket Nos. 50-424-OLA-3 & SERVICE
50-425-OLA-3NCH

Re: License Amendment
(transfer to Southern Nuclear)

ASLBP No. 93-671-01-OLA-3

CERTIFICATE OF SERVICE

I hereby certify that Intervenor's Notice of Deposition of NRC Personnel has been served this 1st day of August 1994, by first class mail upon the persons listed in the attached Service List, with a curtesy copy by facsimile as indicated by "*".

By: Mary Jane Wilmoth

Mary Jane Wilmoth
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