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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD
OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

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

INTERVENOR'S MOTION TO COMPEL RESPONSES TO
INTERVENOR'S FOURTH INTERROGATORY AND DOCUMENT REQUEST TO GPC

COMES NOW, Allen Mosbaugh, Intervenor in the above captioned case, and pursuant to 10 C.F.R. § 2.740b and moves this honorable Board to compel GPC to respond to Intervenor's Fourth Interrogatory and Document Request to Georgia Power Company for the following reasons:

I. ARGUMENT

Intervenor responds to Licensee's objections to each document request. Intervenor sets forth the document request in its entirety, followed by an analysis of Licensee's stated objection.

Document Request 6

6. Intervenor request all performance appraisals for the time period from 1988 to present for the following persons:

- a. Thomas Beckham
- b. Joseph Farley
- c. George Hairston
- d. Louis Long
- e. Patrick McDonald
- f. Charles McCrary

DS03

- g. Ken McCoy
- h. John Meyer
- i. Jack Woodward

Analysis of Objection

Licensee objects to this request on several grounds. The first is that the requested performance appraisals are not relevant to the scope of discovery. Intervenor's contention asserts that Southern Nuclear does not have the character, competence, or integrity to operate a nuclear facility. The performance appraisals are therefore highly relevant and reasonably calculated to lead to the discovery of admissible evidence related to the competence of the individuals listed.

The second ground for objection stated by the Licensee is that the request for performance appraisals constitutes a clearly unwarranted invasion of personal privacy. In objecting on the basis that the request is a unwarranted invasion of personal privacy Licensee cites to 10 C.F.R. §2.790(a)(6). Intervenor asserts that this regulation does not apply to Licensee. This Regulation is applicable only to official and final NRC records and documents:

...including but not limited to correspondence to and from the NRC regarding the issuance, denial, amendment, transfer, renewal, modification, suspension, revocation, or violation of a License, permit, or order, or regarding a rule making proceeding subject to this part...

10 C.F.R §2.790(a).

Therefore Licensee's argument on this basis is inappropriate and should be discarded.

The third ground upon which Licensee objects is that the request is overbroad in that the individuals identified had no

connection with the diesel generator reporting issue in this proceeding and that the six year period is excessive given the statements at issue all occurred in a single year. Intervenor asserts that this request is not overbroad as it seeks relevant information in regard to the identified individual's competence. If any of these individuals has had a history of unsatisfactory performance or of lacking competence in their position it is relevant to the issue of whether any action was taken to correct this or as to why Licensee continued their employment.

Document Request 7

Document Request 7 is withdrawn.

Document Request 8

8. Produce all "Deficiency Cards" for Vogtle Units 1, 2, or common, that relate to emergency diesel generators, diesel generator sub-systems, diesel generator support systems, diesel generator components, diesel generator starting problems or failures, diesel generator running problems and failures, diesel generator trips, diesel generator air quality, diesel generator control air humidity or dewpoints. Include copies of both front and back of the deficiency card and copies on any attachments including Root Cause and Corrective Action sheets.

Analysis of Objection

Intervenor's document request 8 should be limited to cover 1988 to present. Intervenor asserts that the above request gives a detailed description of the deficiency cards it seeks. This request is not overbroad or unduly burdensome. Additionally, Intervenor requests that Licensee identify by Bates number the deficiency cards related to the Vogtle emergency diesel generators for part of the calendar year 1989 and all of the calendar year 1990 (described in its objection to number 8, on

page 3 of its response) which it says are available in the Atlanta offices of GPC's counsel. It would be unduly burdensome to make Intervenor sift through 60,000 pages of documents in search of these documents when Licensee knows their exact location.

Document Request 9

9. Produce all completed Preventative Maintenance (PM) checklist, SCL-166, for Vogtle diesel 1A, 1B, 2A, and 2B, for the years 1989 to the present. These PM checklists pertain to the measurements of control air dewpoints for the EDG's.

Analysis of Objection

Licensee objects to this request as being unduly burdensome and overbroad. Intervenor contends that this request is not overbroad as information pertaining to the past and present reliability of all the diesel generators is relevant to this proceeding and calculated to lead to evidence relevant to this proceeding. Also, this request is not unduly burdensome in that Licensee is able to identify the PM checklist for the Plant Vogtle emergency diesel generators for the years 1989 and 1990. This gives Intervenor the impression that these documents are retained in a manner making them readily available. Additionally, Intervenor requests that Licensee identify by Bates number the PM checklist for the Plant Vogtle emergency diesel generators for calendar years 1989 and 1990 which it says are available in the Atlanta offices of GPC's counsel. It would be unduly burdensome to make Intervenor sift through 60,000 pages of documents in search of these documents when Licensee knows their exact location.

Document Request 10

10. Produce copies of the following Deficiency Cards (include both front and back as well as attachments):

- a. DC 1-90-186
- b. DC 1-89-1316
- c. DC 1-89-1317

Analysis of Objection

Intervenor requests that Licensee identify by Bates number the requested deficiency cards which it claims are available in the Atlanta offices of its counsel. It would be unduly burdensome to make Intervenor sift through 60,000 pages of documents in search of these documents when Licensee knows their exact location.

Document Request 11

11. Produce copies of the following Maintenance Work Orders and all documents contained in the entire work order package created in response to the maintenance work performed with respect to Work Order Nos:

- a. MWO 1-90-01513
- b. MWO 1-90-00899
- c. MWO 2-90-01136
- d. MWO 2-90-00964
- e. MWO 1-88-07746
- f. MWO 1-90-01514
- g. MWO 1-88-02991
- h. MWO 1-90-01729

Analysis of Objection

Intervenor requests that Licensee identify by Bates number the requested maintenance work orders which it claims are available in the Atlanta offices of its counsel. It would be unduly burdensome to make Intervenor sift through 60,000 pages of documents in search of these documents when Licensee knows their exact location.

Document Request 12

Document Request 12 is withdrawn.

Document Request 13

13. Produce the portions of Bill Shipman's daily spiral notebook for 1990 that were not included in previous versions, i.e., the missing pages from the period 3-20-90 to the end of 1990 and in the months of January, February and March 1990.

Analysis of Objection

Intervenor requests that the two pages from Mr. Shipman's 1990 spiral notebook which Licensee has now made available in the Atlanta office of it's counsel be identified by Bates number. Intervenor additionally request that the remaining portions of Mr. Shipman's 1990 spiral notebook be presented to the Board for in camera inspection so that the Board may determine whether these portions are beyond the scope of discovery in this proceeding.

Document Request 14

Document Request 14 is withdrawn.

Document Request 15

15. Produce any Maintenance work order and similar maintenance work documentation from 1990 associated with the inspection or cleaning of the air receiver tanks associated with the diesel starting and control air systems for Vogtle diesels 1A, 1B, 2A, or 2B.

Analysis of Objection

Intervenor requests that Licensee identify by Bates number the requested maintenance work order documentation which it claims are available in the Atlanta offices of its counsel. It would be unduly burdensome to make Intervenor sift through 60,000

pages of documents in search of these documents when Licensee knows their exact location.

Document Request 16

Document Request 16 is withdrawn

Document Request 17

17. With respect to the following individuals:

a) KEN HOLMES; b) PAUL KOCHERY; c) KENNETH STOKES; d) TOM WEBB; e) RICK ODOM; f) SKIP KITCHENS; g) GUSS WILLIAMS; h) GEORGE BOCKHOLD; i) JAMES BAILEY; j) WILLIAM SHIPMAN; k) PAUL RUSHTON; l) LOUIS WARD; m) CLIFF MILLER; n) MARK AJULUNI; o) DAVID LISENBY; p) C. K. MCCOY; q) GEORGE HARISTON; r) R.P. MCDONALD; s) JOSEPH FARLEY; t) A.W. DAHLBERG; u) JOHN AUFDENKAMPE; v) MICHAEL HORTON; w) GEORGIE FREDERICK; x) JACK STRINGFELLOW and y) TOM GREENE;

Produce documents responsive to the following [categories]:

(1) documents which contain the hand writing, thoughts or impressions of the witness with respect to:

- a) LER 90-006,
- b) the April 9, 1990 presentation to the NRC;
- c) the April 9, 1990 corrective action response filed by GPC;
- d) any issues identified in NRC OI Report 2-90-020R or the May 9, 1994 Notice of Violation issued by the NRC to Georgia Power Company;

(2) documents that contain information which directly or indirectly relates to the reliability of the Plant Vogtle diesel generators or the air quality of said diesel generators with respect to air quality or reliability problems occurring between 1989 and present;

(3) documents transmitted between the plant Vogtle site and/or the SONOPCO/GPC Birmingham corporate offices that in any way concerns the diesel generators or site area emergency;

(4) all personal notes, log books, note books, personal calendars, taped memos, tape recordings or other documentation prepared by the witness or which includes the thoughts or impressions of the witness for the time period of January 1, 1990 through December 31, 1990;

(5) all log books or note books any of the witnesses maintained, reviewed or relied upon when performing any

business function related to the start-up of plant Vogtle after the Site Area Emergency.

Analysis of Objection

GPC filed an objection to a request for documents Intervenor made in notices of deposition served on counsel to Licensee. The primary basis for the objection was that "Intervenor's Notice would in effect nullify the document production procedure in the Rules of Practice and demand extensive new document production from GPC in as little as ten days (when the first deposition is scheduled)" Georgia Power Company's Objections to the Document Requests in Intervenor's Notice of Depositions, July 1, 1994, at pp. 2-3 (hereinafter "GPC's Objection"). GPC current argument is totally frivolous. Intervenor's counsel put counsel to Licensee on notice that, unless GPC voluntarily complied with the scope of the documents requested in the noticed depositions or otherwise worked with Intervenor's counsel to reduce the scope of the requests to alleviate any claim of undue burden, Intervenor would be filing document requests based on the requests contained in the noticed depositions. GPC refused to broaden the scope of documents it would produce at the depositions and Licensee filed timely document requests. GPC's refusal to respond to the document requests because they were previously contained in the notice of depositions presents a circular argument which fails to consider that the documents were properly and timely requested by Intervenor.

With respect to documents requested in category (1) above, GPC's Objection asserts that the request includes documents

outside the scope of this proceeding. It is difficult for Intervenor to comprehend how documents related to LER 90-06; the April 9, 1990 Confirmation of Action Response; the April 9th presentation to NRC's Region II; and issues contained in the OI Report or the NOV are outside the scope of this proceeding.

With respect to documents requested in category (2) above, GPC's Objection asserts that this request is overly broad and no time limits are provided. Intervenor notes that category (2) above was re-drafted to include time limits (1989 to present). With respect to burden, Licensee has stated to Intervenor that the bulk of all documents related to the diesel generator were included in the 60,000 pages of documents. Intervenor does not understand how producing a few more documents constitutes undue burden.

With respect to documents requested in category (3) above, GPC's Objection asserts that this request is not limited to the issues related to this proceeding. Intervenor does not object to limiting this request to transmissions related to the reliability of the diesel generators and matters pertaining to diesel air quality, and matters related to the OI Report and NOV. With this limitation, Intervenor believes this request is reasonable in scope.¹

With respect to documents requested in categories (4)-(5) above, GPC's Objection indicates that GPC "object[ed] to these

¹ Although GPC does not raise the concern that the documents requested are not limited in time, Intervenor has no objection to limiting the time to 1989 to present.

requests to the extent they seek documents unrelated to the diesel generator reliability issue in this proceeding." GPC's Objection at p. 5. Intervenor does not object to limiting documents requested in categories (4) and (5) above to matters pertaining to the reliability of the diesel generators; matters pertaining to diesel air quality, and matters related to issues addressed in the OI Report and NOV.

DOCUMENT REQUEST 19

19. Identify each and every document submitted to the NRC or any employee thereof that demonstrated a failure of any diesel generator after March 20, 1990.

- a. For each and every such document state:
 - i) its author;
 - ii) the time, date, method of delivery;
 - iii) to whom it was delivered and/or addressed.
- b. Produce all documents identified together with any document demonstrating the date, time or method of delivery to NRC.

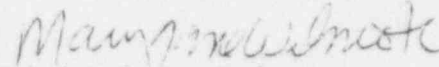
Analysis of Objection

This request specifically addresses a factual assertion made by GPC that it advised the NRC about diesel generator failures. In order to properly evaluate GPC asserted defense, Intervenor requires GPC to identify all documented contacts and to provide a statement of the date, time, to whom and when a document was delivered. Licensee's objection to this request is not well taken.

II. CONCLUSION

For the forgoing reasons Intervenor respectfully request that this Board compel Licensee to respond to Intervenor's Fourth Interrogatory and Document Request To Georgia Power Company.

Respectfully submitted,



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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-3

Re: License Amendment
(transfer to Southern Nuclear)

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

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

CERTIFICATE OF SERVICE

I hereby certify that Intervenor's Motion to Compel Responses to Intervenor's Fourth Interrogatory and Document Request to GPC has been served this 9th day of August 1994, by first class mail upon the persons listed in the attached Service List.

By:

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NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

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GEORGIA POWER COMPANY)	Docket Nos. 50-424-OLA-3
<u>et al.</u> ,)	50-425-OLA-3
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(Vogtle Electric Generating)	Re: License Amendment
Plant, Unit 1 and Unit 2))	(transfer to Southern Nuclear)
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)	ASLBP No. 93-671-01-OLA-3

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