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May 23, 1994

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Mr. Thomas D. Murphy
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In the Matter of
Georgia Power Company
(Vogtle Electric Generating Plant, Units 1 & 2)
Docket Nos. 50-424-OLA-3, 50-425-OLA-3

Gentlemen:

I am writing to apprise you of several emerging discovery issues. We will attempt to resolve the issues by agreement among the parties, but thought it appropriate to bring these matters to your attention in advance of the prehearing conference scheduled for May 26, in case there is a need for discussion or further scheduling at that time.

The first issue relates to the scope of Intervenor's deposition notices, as was briefly discussed in the telephone call between Judge Bloch and the parties on Friday. This issue of scope is also raised by other discovery requests recently filed by Intervenor. A decision on this issue appears important to minimize future discovery disputes. We presented our initial views on the scope of the admitted contentions by separate letter today, in case disputes arose during the depositions scheduled for Tuesday and Wednesday.

The second discovery issue relates to the request for admissions that Intervenor filed on May 17. This request asks that by May 27, Georgia Power admit or deny each statement in the hundred-page OI report, and with respect to any denial, answer interrogatories and document requests.^{1/} Georgia Power does not believe that it can respond to this request in the demanded time frame, or that a response in this time frame is required by the NRC's rules. Georgia Power is also concerned that portions of the OI report, and hence Intervenor's request for admissions, are beyond the scope of this proceeding. Intervenor has indicated a willingness to discuss the schedule for response, and Georgia Power will pursue these discussions to see if some compromise can be reached.

^{1/} A similar request has been served on the NRC Staff.

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Intervenor has also served on Licensee a third set of interrogatories and request for production of documents. Georgia Power is still reviewing this discovery request but will likely object to a number of items which are irrelevant, beyond the scope of this proceeding, or unduly burdensome, or which seek privileged information.

Fourth, Intervenor's Counsel delivered to Shaw Pittman on Friday (May 20) a "Notice of Deposition by Written Interrogatories and Oral Examination and Request for Documents," directed to thirty-six officers or directors of Georgia Power Company or the Southern Company, and other unnamed corporate representatives. This request is unreasonable, and portions appear related to the allegation of illegal transfer, despite the fact that discovery on that issue has closed.

Finally, Georgia Power has received Intervenor's May 13 list of intended depositions on the diesel generator issue. Intervenor lists thirty-three individuals, and in addition, all past and present members of the Boards of Directors of Southern Nuclear, The Southern Company, Georgia Power Company, Alabama Power Company, and Oglethorpe Power Company. This list is also unreasonable, and some appropriate limits appear necessary.

We have also received a copy of Intervenor's May 19 letter to the NRC Staff, in which Intervenor claimed that some unidentified exhibits to the OI report had not been provided, and Intervenor's May 23 letter identifying six tape transcripts as the missing exhibits. Intervenor's letters therefore suggest that the fifty-day period for completion of discovery^{2/} has not yet started.^{3/}

GPC believes that all OI exhibits have been available since April 14. The Staff made available a compilation of exhibits, with dividers separating each. Behind each divider relating to the transcripts which Intervenor complains he did not receive was a sheet stating that the original document was located in OI's offices and a duplicate could be obtained on request. The portion of the OI report identifying all the exhibits was also made available on April 14. Accordingly, any concern with the Staff's production should

^{2/} In the May 3 Prehearing Conference, the Licensing Board ruled that all discovery will be completed within fifty days after release of the OI Report. Tr. 388. The OI Report was released on May 11. The Board's ruling did not refer to the exhibits to the OI Report, which had been previously made available on April 14 in accordance with the Commission's ruling in its April 7, 1994 Memorandum and Order (CLI-94-05).

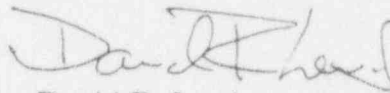
^{3/} Intervenor's May 23 letter further indicates that Intervenor will not consider the fifty-day period to have commenced until transcripts of another 25 tapes, not corresponding to OI exhibits, have been produced. Georgia Power Company is unaware of any justification for this position.

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have been identified and raised long ago.^{4/} Accordingly, Georgia Power continues to adhere to the fifty-day period for completion of all discovery, which properly commenced on May 11, when the OI report was released, and expires June 30, in accordance with the Board's ruling, Tr. 388.

We will continue to attempt to resolve these matters informally and will advise you as any additional agreements, or impasses, are reached.

Sincerely,



David R. Lewis
Counsel for Licensee

cc: Service List

^{4/} As of the April 22 prehearing conference, Intervenor had not yet picked up the exhibits from the NRC Staff. We understand that Intervenor did not pick up the exhibits until May 2. Intervenor did not mention any problem with the Staff's production of the exhibits during May 3 prehearing conference.

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USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'94 MAY 27 P4:03

Before the Atomic Safety and Licensing Board

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)

GEORGIA POWER COMPANY,)
et al.)

(Vogtle Electric Generating)
Plant, Units 1 and 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

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