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UNITED STATES OF AMERICA
BEFORE THE
SECURITIES AND EXCHANGE COMMISSION

THE SOUTHERN COMPANY)

ALABAMA POWER COMPANY)

GEORGIA POWER COMPANY)

ADMIN. PROC. NO. 70-7530

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REPLY TO THE SOUTHERN
COMPANY'S RESPONSE TO OGLETHORPE POWER
COMPANY'S MOTION TO INTERVENE, COMMENTS
AND REQUEST FOR HEARING

In this proceeding, The Southern Company ("Southern"), a registered holding company, and two of its wholly-owned subsidiaries, Alabama Power Company ("APC") and Georgia Power Company ("GPC") seek authority for Southern to form, organize and acquire the capital stock of another wholly-owned subsidiary, Southern Nuclear Operating Company, Inc. ("SONOPCO"), pursuant to the Public Utility Holding Company Act ("Act") and the Commission's rules. If formed, SONOPCO would provide nuclear operation and related technical and administrative services to Southern affiliates that own and operate nuclear plants.

Oglethorpe Power Corporation ("Oglethorpe Power") filed a "Motion to Intervene, Comments and Request for Hearing" on September 6, 1988 ("Oglethorpe Comments"). Oglethorpe Power demonstrated in its comments that 1) the public interest would be adversely affected by the Commission's approval of the Application; 2) the formation

NUCLEAR REGULATORY COMMISSION

Docket No. 50-424-OLA-3 Official Ex. No. 39
in the matter of GA Power Units 1+2
Staff IDENTIFIED
Applicant RECEIVED ✓ pp 1, 3-4
Intervenor ✓ REJECTED ✓ pp 2, 5-15
Cont'g Offr
Contractor DATE 1-12-95
Other Witness
Reporter C. Riner

Southern and GPC have now asserted that without regard to those discussions, the SEC should approve Southern's proposal. Southern's request is without basis. Contrary to Southern's assertion that the issues raised by Oglethorpe Power only concern "resolution of . . . private matters between the parties" (Southern's Response at 7), Southern's continuing failure to present adequate support for its application goes directly to the public interest and other standards of the Act and the Commission's rules. Oglethorpe Power does not seek from this Commission "revisions of existing contractual agreements between the co-owners," Southern's Response at 7, but rather the proper and statutorily required consideration of a sufficient record and the implementation of safeguards required by the 1935 Act.

1. Degree of Involvement and Ability of Co-Owners to Control Plant Operations.

The creation of SONOPCO as Southern now contemplates would seriously undermine the rights of co-owners relating to plant operations and effectively prevent efforts by the co-owners to correct SONOPCO's failures in implementing its obligations and to protect their investment. As a result, the public's interest in efficient and prudent operation of the facilities will be undercut. These events will occur under Phase II as contemplated by

Southern, and are already occurring under Phase I. SONOPCO's eventual assumption of the role of plant operator would further hinder Oglethorpe Power's ability to act to assure prudent and efficient operation. Oglethorpe Comments at 8-9.

Actions taken by GPC and Southern during Phase I have already had the effect of interfering with Oglethorpe Power's ability to discharge its obligations and rights under the Vogtle and Hatch Participation Agreements and to carry out its responsibilities to its members. GPC personnel with whom Oglethorpe Power dealt directly in relation to its interests are now subject to separate authority and are located in Birmingham, Alabama. Oglethorpe Power's ability to obtain contractually required information is thus hindered, and its ability to fulfill its obligations as co-owner reduced, to the detriment of its and the public's interest.^{1/} Implementation of Phase II will only exacerbate such problems unless appropriate conditions and safeguards are established. It is certainly not in the public interest to permit establishment of a structure that would impede proper oversight of nuclear plant operations.

^{1/} The ability to obtain information about the progress of construction and ongoing operation of the units is especially important after nuclear plants are commercially operable because of the need to be informed of decisions to add expensive capital additions. For example, the total cost of Plant Hatch has increased over one and one-half times since its commercial operation date because of capital additions to the plant.