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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
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In the Matter of)	
)	
GEORGIA POWER COMPANY, ET AL.)	Docket Nos. 50-424
)	50-425
(Vogtle Electric Generating Plant,)	
Units 1 and 2))	

APPLICANTS' RESPONSE TO GEORGIANS AGAINST
NUCLEAR ENERGY REQUEST TO ESTABLISH PUBLIC
DOCUMENT ROOM AND RESCHEDULE PREHEARING CONFERENCE

On April 9, 1984, petitioner Georgians Against Nuclear Energy (GANE) filed a "Request to Establish Public Document Room and Reschedule Prehearing Conference." GANE asserts that the location of the Local Public Document Room in Waynesboro has limited its ability to identify key issues. Accordingly, it requests that the NRC establish a document room in Atlanta and reschedule the Prehearing Conference to allow GANE to review documents and file amendments to its petition. GANE asserts that the Beaver Valley licensing proceeding provides precedent in support of GANE's request.

Applicants do not oppose the establishment of a Local Public Document Room in Atlanta, but Applicants believe that a discussion whether to establish a document room in Atlanta is

an appropriate subject for the special prehearing conference. The need for a document room in Atlanta, or its contents and party(ies) responsible for its contents and upkeep, can best be assessed once it is known who the parties to this proceeding will be and what matters will be litigated.

Applicants strongly oppose the rescheduling of the prehearing conference. Requests to delay the licensing proceeding at its very outset are not an auspicious commencement.^{1/} Moreover, GANE's request is unjustified and readily distinguishable from that of the petitioner in the Beaver Valley proceeding.

In the Beaver Valley licensing proceeding, the petitioner's motion for a second document room was filed before the Licensing Board ever scheduled the Special Prehearing Conference and the date for submittal of contentions. The motion was unopposed, and the Board, in its Order scheduling the Special Prehearing Conference, requested the Staff to set up the second document room. Duquesne Light Company, et al. (Beaver Valley Power Station, Unit 2), Docket No. 50-412, unpublished

^{1/} The existence and location of public document rooms with materials relevant to this proceeding was known to GANE at least as early as the Notice of Hearing in this proceeding, published in the Federal Register on December 28, 1983. To wait four-and-a-half months to complain of what is normal NRC practice and additionally then to request a delay in the proceeding to accommodate the tardy request is a bold, but not well-founded, position.

Memorandum and Order (Scheduling of a Special Prehearing Conference) (August 4, 1983), at 2. See Duquesne Light Company (Beaver Valley Power Station, Unit 2), LBP-84-6, 19 N.R.C. ____, slip op. at 23 (January 27, 1984).

On the date when contentions were due, the Beaver Valley petitioner filed contentions, but informed the Board that a second public document room had not been established. See Beaver Valley, supra, LBP-84-6, 19 N.R.C. at ____, slip op. at 24. The Staff subsequently reported that it only provided transcripts and that none yet existed; the Staff asserted other documents should come from Applicants. The Beaver Valley Applicants, who previously had not been requested to provide documents, supplied the petitioner with a copy of the FSAR and ER at the Special Prehearing Conference. See id. at ____, slip op. at 26.

The Beaver Valley Board determined at the Special Prehearing Conference that the petitioner's contentions lacked specificity, but that certain contentions related to information in the FSAR and ER. "To assure that petitioner would not in any way have been prejudiced by not having the documents [FSAR and ER] available when it prepared its proposed contentions," the Board granted petitioner additional time to add specificity to those contentions. See id. at ____, slip op. at 27.

In the instant case, GANE did not make a timely request for the establishment of a second document room as did the Beaver Valley participants. Instead, GANE made its request well after the schedule for submitting contentions was set (without objection) and just three days before contentions were due to be in the hands of the Board and parties.^{2/} More importantly, Applicants provided GANE with a copy of its Operating License Application, FSAR, and ER in February (several weeks before the Board's Memorandum and Order Scheduling the Special Prehearing Conference), and GANE thus has, and has had for two months, the very documents sought by petitioner in Beaver Valley. See Letter from James E. Joiner to Carol Stangler (February 9, 1984). Finally, the purpose of GANE's request to reschedule the prehearing conference is not merely to amend previously filed contentions as was allowed in Beaver Valley, but to amend its petition (i.e., to file new contentions) presumably with waiver of the need to show good cause for late-filed contentions. The Beaver Valley Board, however, only permitted petitioner to make its contentions more specific once it had an opportunity to review the FSAR and ER. GANE has had in its possession for approximately two months the very

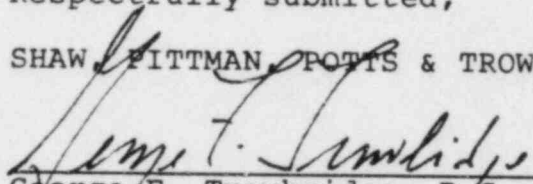
^{2/} GANE indeed filed contentions on the late date in a filing that makes no reference to the motion. Were the motion to be granted, of course, the contentions filed in accordance with the Board's Schedule would be no more than a first installment of contentions, hardly what the Commission's regulations or the Schedule contemplate.

documents found necessary in Beaver Valley to formulate specific contentions.

Accordingly, no rescheduling of the Special Prehearing Conference is warranted and GANE's request to reschedule the prehearing conference should be denied. GANE has not made a showing of good cause for an extension of time, as is required by 10 C.F.R. § 2.711. GANE may still amend its contentions as the Commission's Rules of Practice allow, but such pleadings should be subject to 10 C.F.R. § 2.714(a)(1) and a balancing of the five factors therein. Discussion about the need for and contents of additional public document rooms to accommodate petitioner GANE should be left to the Special Prehearing Conference.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE


George F. Trowbridge, P.C.
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David R. Lewis

Counsel for Applicants

Dated: April 17, 1984

April 17, 1984

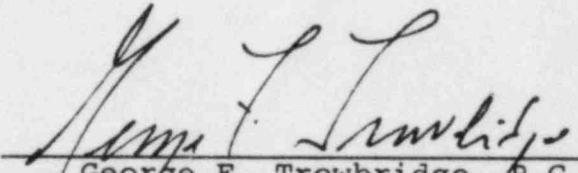
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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Response to Georgians Against Nuclear Energy Request to Establish Public Document Room and Reschedule Prehearing Conference," dated April 17, 1984, were served upon the persons on the attached Service List by deposit in the United States mail, postage pre-paid, or where indicated by an asterisk by hand delivery, this 17th day of April, 1984.



George F. Trowbridge, P.C.

Dated: April 17, 1984

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