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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

GEORGIA POWER COMPANY  
et al.,

(Vogtle Electric Generating  
Plant, Unit 1 and Unit 2)

)  
)  
)  
) Docket Nos. 50-424, 50-425 - OLA-3  
) (September 18, 1992 License  
) Amendment Application to  
) transfer license to Southern  
) Nuclear)  
)

AMENDMENTS TO PETITION TO INTERVENE AND REQUEST FOR HEARING

Petitioners Allen L. Mosbaugh and Marvin B. Hobby hereby  
amend the initial petition to intervene with respect to Georgia  
Power Company's ("GPC") request to transfer operation of the  
Vogtle Electric Generating Plant ("plant Vogtle") to the Southern  
Nuclear Operating Company ("Southern Nuclear" or "SONOPCO.").<sup>1/</sup>

<sup>1/</sup> This Board notes that, since GPC already has an  
operating license, this tribunal lacks authority to revoke that  
license or interfere with GPC's ability to operate plant Vogtle.  
Petitioners have focused on the conduct of Southern Nuclear  
management as it relates character, competence, integrity,  
candor, truthfulness and willingness to abide by regulatory  
requirements. Based on these considerations, petitioners assert  
that the applicant should be prohibited from transferring  
authority from one Southern Company entity, GPC, to another  
Southern Company entity, Southern Nuclear.

Thus, where individual managers associated with Southern  
Nuclear have functioned and/or continue to function as GPC  
managers, their role in GPC management is irrelevant to this  
Board's consideration as to whether Southern Nuclear has the  
requisite character, competence, integrity, candor, truthfulness  
and willingness to abide by regulatory requirements necessary  
before this Board may replace GPC as the sole licensed operator  
of plant Vogtle.

I. STANDING OF ALLEN MOSBAUGH

Pursuant to §189(a) of the Atomic Energy Act, 42 U.S.C. 2239(a)(1), and 10 C.F.R. § 2.714(a), Allen L. Mosbaugh has standing to intervene. Mr. Mosbaugh owns property and resides at 1701 Kings Court, Grovetown, Georgia, 30813. Said property is within 50 miles of plant Vogtle. Mr. Mosbaugh resides at this residence approximately one week each month. Said residence is a single family, two story structure situated on 2 1/2 acres of property deeded in the name of petitioner. Said property represents petitioner's primary residence. Indeed, this residence has special value to Mr. Mosbaugh as he personally constructed said dwelling. Mr. Mosbaugh's desire to protect his residence is therefore unique and transcends his monetary interests in the property.

Moreover, Mr. Mosbaugh routinely conducts in-person meetings with investigators of the Nuclear Regulatory Commission's Office of Investigation (which has been an on-going process since 1990) at his Grovetown residence and other locations in the Augusta, Georgia area. Mr. Mosbaugh maintains his Grovetown residence at all times and he has never rented or otherwise leased any portion of his Grovetown residence to anyone. His automobile is registered and licensed by the state of Georgia, listing petitioner's address as stated above. Mr. Mosbaugh's voted in Columbia County, Georgia, in 1992 elections; continuously banks in the Augusta area, and continuously maintains a private telephone at his Grovetown residence (Mr. Mosbaugh's name appears in the residential listings of the Augusta, Georgia phone book).

## II. CONTENTIONS

Petitioner submits four contentions for consideration by the Board. The first contention concerns the de facto creation of SONOPCO. Contentions 2 and 3 concerns the general proposition that SONOPCO's management structure, in its final configuration, does not have the requisite character, competence, integrity, candor, truthfulness and willingness to abide by NRC requirements to receive licensing authority to operate plant Vogtle. Contention 4 concerns The Southern Company's role in the creation of SONOPCO and the fact that The Southern Company exercise of control over SONOPCO, together with the fact that the Southern Company does not have the requisite character, competence, integrity, candor, truthfulness and willingness to abide by NRC requirements, demonstrates that control over the operation of plant Vogtle should not occur until such time as The Southern Company can demonstrate the requisite character, competence and integrity. Although these four contentions are set out separately, their similarity would appear to require that they be considered in conjunction. In sum, the uniting issue behind these four contentions is whether the transfer of responsibility from the current licensees to the newly created Southern Company subsidiary, the Southern Nuclear Operating Company, Inc., increases the risk of the possibility of an accident and otherwise represents an unsafe operating condition.

### CONTENTION 1

The Southern Company (working in conjunction with its corporate affiliates and officers) effectuated transfer of control of the operation of the Vogtle Electric Generating Plant from the licensees to a de facto corporation, known as the Southern Nuclear Operating Company, without the knowledge or consent of the co-owners of plant Vogtle. The corrupt corporate policy effecting the creation of the de facto Southern Nuclear Operating Company resulted in the creation of a management chain of command so lacking in character, competence, integrity, candor, truthfulness and willingness to abide by regulatory requirements as to represent a threat to the health and safety of the public and/or represent a potential unsafe operating condition which must be corrected before formal transfer of operating responsibility may pass to the Southern Nuclear Operating Company, Inc.

### CONTENTION 2

The Southern Nuclear Operating Company, Inc., does not possess the requisite character, competence and integrity, and does not have the candor, truthfulness and willingness to abide by regulatory requirements to become the licensee of the Vogtle Electric Generating Plant;

### CONTENTION 3

The Southern Nuclear Operating Company, Inc., a wholly owned subsidiary of The Southern Company, does not possess the requisite character, competence and integrity, and does not have the candor, truthfulness and willingness to abide by regulatory requirements to become the licensee of the Vogtle Electric Generating Plant, and as such transfer of the license represents an increase risk in to the health and safety of the public and/or represents a potential unsafe operating condition which must be corrected before responsibility for operating plant Vogtle can be transferred to the Southern Nuclear Operating Company, Inc.

#### CONTENTION 4

The Southern Company, by virtue of the corporate structure and make-up of the Southern Nuclear Operating Company, Inc., Board of Directors, controls and directs the management of its wholly owned subsidiary, the Southern Nuclear Operating Company, Inc. Because The Southern Company does not have the requisite character, competence and integrity, and does not have the candor, truthfulness and willingness to abide by regulatory requirements required of a licensee and because The Southern Company exercises substantial control over management of the Southern Nuclear Operating Company, Inc., transfer of the Vogtle Electric Generating Plant license to the Southern Nuclear Operating Company, Inc., represents a an increase risk to the health and safety of the public and/or represents a potential unsafe operating condition which must be corrected before said transfer can occur.

#### III. BACKGROUND TO CONTENTIONS AND FACTUAL BASIS OF CONTENTION 1

By October of 1988, The Southern Company had taken action to place into operation a Southern Nuclear Operating Company ("SONOPCO"). Because The Southern Company could not obtain approval from the Securities and Exchange Commission to create a new corporate entity, The Southern Company circumvented the formal incorporation process and created an unincorporated entity known throughout the Southern System as the "SONOPCO project."<sup>2/</sup>

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<sup>2/</sup> Evidence relating to the creation of SONOPCO is contained in petitions filed by Allen Mosbaugh and Marvin Hobby pursuant to 10 C.F.R. 2.206. The first petition is dated September 11, 1990, and is entitled "Request for Proceeding and Imposition of Civil Penalties for Improperly transferring Control of Georgia Power Company's Licenses to the SONOPCO Project and for the Unsafe and Improper Operation of Georgia Power Company Licensed Facilities, hereinafter referred to as "Petitioners" September 11, 1990 2.206 Petition.

The second petition is dated July 8, 1991, and is entitled "Amendments to Petitioners September 11, 1990 Petition; and Response to Georgia Power Company;s April 1, 1991 Submission by (continued...)



1. Staffing of SONOPCO

The staffing of the SONOPCO project executives were done with the knowledge and consent of The Southern Company.<sup>3/</sup> Mr. Farley was given the responsibility for and served as the de facto Chief Executive Officer of SONOPCO.<sup>4/</sup> Additionally, The Southern Company established a de facto SONOPCO board of directors, headed by Farley. This board of directors met regularly and operated as if the SONOPCO project had been incorporated.

Directly under Farley was Mr. R.P. McDonald, who served on the SONOPCO project board. According to Farley, he and McDonald

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<sup>2/</sup>(...continued)  
it Executive Vice President, Mr. R. P. McDonald," hereinafter referred to as "Petitioners' July 8, 1991 10 C.F.R. 2.206 Petition.

Because both of these petitions contain significant factual information relating to all four contentions, petitioners hereby incorporate by reference these two petitions into the body of this amendment.

<sup>3/</sup> At the time Joseph M. Farley left his position as president of Alabama Power Company and was named as the Executive Vice President of The Southern Company and was given responsibility over nuclear matters, particularly with respect to the formation of SONOPCO (Farley was eventually named as the SONOPCO's President). In this respect, Mr. Dahlberg testified during the course of the Hobby v. GPC, case No. 90-ERA-30, proceedings that Joe Farley was not an officer of GPC and that he "heads up the formation of SONOPCO and that entity." Hobby v. GPC, case No. 90-ERA-30, Hearing Tr. at p. 308.

<sup>4/</sup> Mr. Farley was responsible for reporting to the Southern Company Board on the status of the SONOPCO organization. Additionally, The Southern Company Board apparently received all of its information concerning the performance of GPC's nuclear plants directly from Farley as well. See Hobby v. GPC, Case No. 90-ERA-30, May 7, 1990 deposition of Joseph Farley at pp. 39-40 (attachment 7 to Petitioners' July 8, 1991 Petition).

worked very closely: "Mr. McDonald and I work together and have a close working relationship. We, in essence, occupy a set of joint responsibilities with the [SONOPCO] project" and, with respect to SONOPCO "administrative matters," Mr. McDonald reported directly to Mr. Farley. Farley Deposition at Page 11-12 (emphasis added). Excerpts of Mr. Farley's deposition are appended hereto as Attachment 7. Mr. Farley went on to explain:

In an informal sense, he and I jointly are what we describe as an office of the chief executive of the project. It is not a corporation. It is a project. In areas such as the selection of a candidate for an accounting job or a job in the non-operating areas. When I say operating, I mean the operating of the power plants themselves. He does not report to me and yet on the other areas, particularly administrative or in governmental affairs which is part of my responsibility, he would report to me in that sense....

Hobby v. GPC, Case No. 90-ERA-30, May 7, 1990 deposition of Joseph Farley at pp. 13-14 (emphasis added)(attachment 7 to Petitioners' July 8, 1991 Petition).

Indeed, the reporting structure of the SONOPCO project was set into place and McDonald's reporting relationship to the CEO of SONOPCO would remain unchanged. As Farley testified, upon the incorporation of SONOPCO, the reporting relationship between Farley and McDonald "would not change" Farley Depo. Tr. at pp. 16-17. Indeed, according to Farley:

The Vice President of Administrative Services [is] Mr. McCrary. He is a Service Company employee. He reports both to me and to Mr. McDonald. He reports to what I described earlier as a kind of an office of the chief executive for the project on administrative matters, not on technical matters...[Mr. Long and Mr. McCrary] are, in essence, under me in the organization but they do not report to me. They report to Mr. McDonald. In the case of Mr. McCrary, for purposes of this project,

there are many things that Mr. McCrary reports directly to me about the others he reports jointly to me and to Mr. McDonald or to whichever one of us happens to be there. Mr. McDonald and I undertake to be in this transition period of sort of a joint office for the administrative side....

Hobby v. GPC, Case No. 90-ERA-30, May 7, 1990 deposition of Joseph Farley at pp. 37-38 (attachment 7 to Petitioners' July 8, 1991 Petition).

Once Farley and McDonald were placed in charge, the SONOPCO project vice presidents of administration and technical services were selected. McDonald and Farley then selected Ken McCoy to serve as the new SONOPCO plant Vogtle project vice president.<sup>5/</sup> By this point, GPC had lost touch with the operation of plant Vogtle, and was generally unable to determine the management structure over its nuclear power facilities. This general confusion is typified by the following examples:

1) GPC's President, Mr. Dahlberg, did not know the management structure governing SONOPCO's Administrative and Technical Services groups.<sup>6/</sup> Mr. Farley, on the other hand,

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<sup>5/</sup> The remainder of the SONOPCO project management team over plant Vogtle was carried out over a two-day period. The entire management team was selected by McDonald, McCoy and two other SONOPCO project vice Presidents, Hairston and Beckham. Hobby v. GPC, case No. 90-ERA-30, Hearing Transcript at pp. 284-287 (Attachment 3 to Petitioners' July 8, 1991 10 C.F.R. 2.206 petition). Also see McHenry Affidavit ("...the decisions as to staffing were made by Messrs. George Hairston, Tom Beckham and Ken McCoy. They met for two days at the 270 Peachtree Street Building, took an organization chart, and filled in names from the top of the organization to the bottom...") (Exhibit G to Petitioners' September 11, 1990 10 C.F.R. 2.206 petition).

<sup>6/</sup> See Hobby v. GPC, Case No. 90-ERA-30, deposition of Dahlberg at pp. 22-23 (Attachment 8 to Petitioners' July 8, 1991 10 C.F.R. 2.206 Petition) ("I just don't know").



testified that he worked closely with the SONOPCO project Technical Services vice president, Mr. Long, and that the SONOPCO project Administrative Services vice president, Mr. McCrary, reported directly to him and McDonald. Hobby v. GPC, Case No. 90-ERA-30, May 7, 1990 deposition of Joseph Farley at pp. 37-38 (attachment 7 to Petitioners' July 8, 1991 Petition). Moreover, on January 11, 1991, during a transcribed NRC Staff proceeding, McDonald claimed that Farley had no responsibility for the SONOPCO project's Administrative group:

Farley was performing his job as a Vice President of the Southern Company. He had no responsibilities for this Administrative Support. That Administrative Support that we had basically was being done, and he was part of a contract -- it was a contract to me from Southern Services for providing essentially much the same support we have here now...

See (Attachment 6 to Petitioners' July 8, 1991 10 C.F.R. 2.206 Petition at p. 42). This assertion directly contradicts Farley's description of his role with respect to SONOPCO administrative matters prior to December of 1991. See Attachment 7 to Petitioners' July 8, 1991 10 C.F.R. 2.206 Petition) (May 7, 1990 deposition testimony of Joseph M. Farley at p. 14, 37-38).;

2) Mr. H. Grady Baker, GPC's then Senior Executive Vice President, stated that he thought Farley was an officer of GPC. Hobby v. GPC, case No. 90-ERA-30, Hearing Tr. at pp. 690-691. Also see Exhibit C to Petitioners' September 11, 1990 Petition (Hobby v. GPC, case No. 90-ERA-30, deposition Baker Depo. pp. 16-17) ("Farley and McDonald are officers of Georgia Power Company, reporting to the president, Bill Dahlberg");

3) Messrs. Dahlberg and Baker testified that they believed McDonald to be an officer of Southern Company Services. Hobby v. GPC, case No. 90-ERA-30, Hearing Tr. at p. 304 (Dahlberg). Yet, McDonald testified that he was not an officer of Southern Company Services. Id., at p. 633 (McDonald);

4) Mr. Farley (not Dahlberg) reported to The Southern Company Board of Directors on the performance of GPC's nuclear units. Hobby v. GPC, Case No. 90-ERA-30, May 7, 1990 deposition of Joseph Farley at pp. 39-40 (attachment 7 to Petitioners' July 8, 1991 Petition);

5) A GPC corporate concern filed by a GPC employee was referred to Mr. Farley for resolution in May of 1989 -- rather than a GPC executive. See Hobby v. GPC, Case No. 90-ERA-30, Hearing Transcript at p. \_\_;

6) At the time of the staffing of the SONOPCO project Mr. McDonald routinely made misleading statements about the method used to staff the project as well as the role he played in choosing the SONOPCO project Vice President of Technical Services and Vice President of Administrative Services. For example, in December of 1988,<sup>1/</sup> Mr. McDonald testified that he was not

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<sup>1/</sup> The transcript of December, 1988 Deposition testimony of Mr. McDonald contains the following dialogue:

Q: Who selected the administrative and technical services vice-presidents?

\* \* \*

A: I don't know.

Q: So you did not select them.

(continued...)

involved in the selection of Mr. Long as the SONOPCO project Vice President of Technical Services or Mr. McCrary as the SONOPCO project Vice President of Administrative Services. But this testimony was wholly contradicted at a later date by McDonald himself. <sup>B/</sup>

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- <sup>U/</sup>(...continued)
- A: No.
- Q: Who are the vice-presidents for those services?
- A: Charles McCrary and Lewis Long.
- Q: And Charles McCrary is Vice-President for what?
- A: McCrary? Administrative Services.
- Q: Okay. How about Lewis Long, is Technical Services?
- A: Yes. Now let me qualify my statement, in saying that I don't know. The selection of those people is under the authority and responsibility of the Southern Company Services. I imagine in the normal course of events that selection is officially made by the President of Southern Company Services. There may have been other arrangements that I am not aware of, but I think that that was true.

See (Attachment 2a to Petitioners' July 8, 1991 10 C.F.R. 2.206 Petition, at pp. 12-13)

<sup>B/</sup> In May of 1990, McDonald testified that he personally chose Long for the SONOPCO project position of Technical Services vice president and Mr. McCrary as the SONOPCO project vice president of administrative services, and that he personally met with the Southern Company Services Board of Directors to obtain the SCS's Board's approval:

- Q: Were you involved in the selection of Mr. Long as Vice President of Technical Services?
- A: For that position, yes.
- Q: Were you involved in the selection of Mr. McCrary for Administrative Services?

(continued...)

7) McDonald made misleading statements about the process used to staff the entire SONOPCO management structure. Where McDonald testified that each level of management helped selected the managers under them, in fact, this did not occur. Rather, the entire management team over plant Vogtle was chosen over a two-day period by McDonald and three other SONOPCO project vice presidents. These four executives filled in blank skeletal organizational charts with the names of managers. These names were then given to Tom McHenry (then functioning as a special assistant to McDonald) who immediately contacted these individuals to extended job offers. See Hobby Hearing Transcript at pp. 384-287 (Attachment 3 to Petitioners' July 8, 1991 10 C.F.R. 2.206 Petition). Also see McHenry Affidavit (Exhibit G to Petitioners' September 11, 1990 10 C.F.R. 2.206 Petition); and

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B/ (...continued)

A: Yes.

\* \* \*

Q: Other than the Board of Directors who else are you aware of who had a role in the selection of Mr. Long?

A: No one that I know of.

Q: Just you?

A: Well, I might have discussed it with other people but I was the one who requested that he be considered for that position by the Board of Directors.

Q: And as to Mr. McCrary --

A: Same.

Hobby v. GPC, May 7, 1990 Deposition testimony of McDonald at pp. 12-13.

8) The control over SONOPCO was unclear even to the GPC manager charged with overseeing GPC's role in the formation of the SONOPCO project. According to an internal confidential memorandum signed by a then Senior Vice President, George Head, GPC's General Manager, Nuclear Contract Administration, was confused as to the reporting structure and as to who was in charge of GPC's nuclear facilities (Exhibit A to Petitioners' September 11, 1990 10 C.F.R. 2.206 petition). Indeed, the memorandum noted that Oglethorpe Power "very concerned about this issue." Id. This internal memorandum further alerted GPC to the fact that the confusion over who was in charge of GPC's nuclear facilities indicated that GPC was "in violation of [GPC's] license and could experience some significant repercussions from the NRC -- including the revocation of the license." Id. Also see Attachment 4 to Petitioners' July 8, 1991 10 C.F.R. 2.206 Petition.

2. The Southern Company's establishment of the SONOPCO project resulted in the violation of NRC requirements.

The creation of the SONOPCO project and its staffing violated 10 C.F.R. §50.34(6)(i), which require the plant Vogtle licensees to keep the NRC informed about: "The applicant's organizational structure, allocation or responsibilities and authorities, and personnel qualification requirement." In this respect, GPC failed to notify the NRC that Mr. McDonald had begun to report to Mr. Farley for an extended period of time, from November, 1988 until December of 1989. In December of 1990, McDonald presented NRC staff with a presentation regarding the



structure of SONOPCO. At that time he falsely asserted that he did not begin to report directly to Mr. Farley until December of 1990. But, as Farley had already testified, McDonald actually began to report to Mr. Farley with respect to administrative matters back in November of 1988.

IV. FACTUAL BASIS OF CONTENTIONS 2, 3 and 4

SONOPCO's and The Southern Company's corporate ethic which resulted in the current alignment of management over plant Vogtle is a critical area of inquiry in light of the fact that the Commission is heavily dependent on a licensee to provide accurate and timely information about its facility. See, e.g., Louisiana Power & Light Co. (Waterford Steam Electric Station, Unit 3), ALAB-812, 22 NRC 5, 48, 51 (1985). The issues presented by the contentions petitioner seeks admission turns on whether SONOPCO's management has, in the past, exhibited behavior which bears a rational connection to the safe operation of the facility or which tends to demonstrate that SONOPCO's management does not have the candor, truthfulness and willingness to abide by regulatory requirements necessary to operate a nuclear facility, see Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit 1), ALAB-772, 19 NRC 1193, 1227 (1984), rev'd in part on other grounds, 21 NRC 282 (1985).

The factors demonstrating that SONOPCO management does not have the candor, truthfulness and willingness to abide by regulatory requirements necessary to operate a nuclear facility follows.

1. SONOPCO's highest levels of management conspired to submit and did submit materially false information to the NRC concerning critical safety-related information pertaining to a March, 1990 Site Area Emergency.

In March of 1990 a nuclear disaster at plant Vogtle was averted when electrical power was restored following a station blackout to Unit 1 when the back-up diesel generator (DG 1B) failed to start. At the time, the configuration of the plant was such that the Reactor Coolant System was drained to half volume (i.e., the reactor was at "midloop") and containment integrity was breached as a result of the containment equipment access hatch have been opened. Pursuant to licensing requirements, the newly aligned SONOPCO management team drafted and submitted a Confirmation of Action Response letter and thereafter a Licensee Event Report ("LER"), No. 90-006, to NRC Staff.

While stationed at the plant site, petitioner Allen Mosbaugh had engaged in one-party tape recording during the Site Area Emergency and thereafter up until he advised GPC of his recording activity on or about September 11, 1990. In sum and substance, the conversations Mr. Mosbaugh captured on tape irrefutably demonstrate that SONOPCO management responsible for submitting LER 90-006 knew that said LER contained material false statements and that said management conspired to and did submit materially false information to the NRC that was significant to the regulatory process.<sup>2/</sup> Based on tape recorded evidence and other

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<sup>2/</sup> Petitioners adopt the definition of a Material False Statement set out in 10 C.F.R. Ch.1, Supplement VII, A(1), Fn. 15 ("a statement that is false by omission or commission and is relevant to the regulatory process.")

documentation in the possession of NRC OI, managers directly partaking in the cover-up and submission of material false information to the NRC include the entire management chain currently in place, from the Executive Vice President, R. P. McDonald, to the current plant manager, Bill Shipman.<sup>10/</sup>

2. SONOPCO's highest level management conspired to submit and did submit materially false information to NRC Staff in order to derail on-going NRC-OI investigations

On September 11, 1990, Messrs. Marvin B. Hobby and Allen L. Mosbaugh filed a petition with the United States Nuclear Regulatory Commission (hereinafter "Petition"). The Petition requested that the Commission investigate allegations set out in the Petition and determine, inter alia, whether the Georgia Power Company ("GPC" or "licensee") possessed the requisite "character, competence, fundamental trustworthiness and commitment to safety to operate a nuclear facility." <sup>11/</sup>

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<sup>10/</sup> The actual tape recorded evidence is currently in the hands of NRC's Office of Investigations. Upon information and belief, as a result of allegations of criminal wrongdoing on the part of SONOPCO management initiated by petitioner with the Office of Investigation, NRC-OI has issued a report finding intentional criminal misconduct on the part of the highest levels of the SONOPCO management. Petitioner has requested a copy of said OI Report pursuant to a Freedom of Information Act Request, but said report is currently unavailable, until such time as potential criminal prosecution of SONOPCO management is complete. Petitioner requests that a copy of the IG report be sent, under seal, to the Board and that the entire IG report, together with all exhibits thereto (including tape recordings made by Mr. Mosbaugh) be considered as apart of the record in this matter.

<sup>11/</sup> Petitioner incorporates this petition and attached exhibits thereto as an exhibit hereto.

On February 28, 1991, Mr. Steven Varga of the Office of Nuclear Reactor Regulation sent to Mr. W. G. Hairston, Senior Vice President, Nuclear Operations, a Request for Additional Information Regarding the 10 C.F.R. 2.206 Petition. See Attachment 1 to Petitioners' July 8, 1991 10 C.F.R. 2.206 Petition. Therein, NRC requested additional information concerning information contained in the September 11, 1990 10 C.F.R. 2.206 Petition, and required that this additional information be submitted "under oath or affirmation." On April 1, 1991, McDonald submitted additional information under oath.<sup>12/</sup>

Unrefutable evidence demonstrates that McDonald's Response contains numerous verifiable material false statements,<sup>13/</sup> and further demonstrates that SONOPCO management intentionally made

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<sup>12/</sup> The response submitted by McDonald is entitled "Vogtle Electric Generating Plant Regarding Petition of M.B. Hobby and A.L. Mosbaugh" and is hereinafter referred to as the "Response" or "McDonald's Response"

<sup>13/</sup> Petitioner provided extensive evidence to NRC-OI, including numerous tape recordings, demonstrating the intentional and material falsity of the statements contained in McDonald's response. NRC-OI subsequently advised petitioner's counsel that the public release of the evidence petitioners have already supplied to NRC-OI would seriously compromise NRC-OI's on-going investigation into the allegation that GPC's Executive Vice President's April 1, 1991 Response contains material false statements. Having cooperated with the NRC in its investigation of GPC and respecting this request, Petitioners refrain from citing and identifying this documentation. Petitioners nonetheless respectfully request that this information be release to the Board under seal, including a final NRC-OI investigative report concerning these allegations, and that the information provided by NRC-OI be incorporated as part of the factual basis to the contentions petitioners seek admission.



material false statements to the NRC and conspired to cover-up wrongdoing on the part of SONOPCO management in order to obstruct the NRC's on-going investigations into allegations set forth in Petitioners' September 11, 1990 10 C.F.R. 2.206 Petition (i.e., obstruct justice).

In addition to the documentation in the possession of NRC-OI (which petitioner incorporates by reference herein), petitioners incorporate by reference the entirety of their July 8, 1991 10 C.F.R. 2.206 petition, in particular: Section I.1 (relating to McDonald's submission of material false statements to the NRC when responding to allegations raised by Petitioners in their September 11, 1990 Petition);<sup>14/</sup> and Section I.2 (relating to false statement as to when Mr. Mosbaugh alerted SONOPCO management about false statements contained in LER 90-006).<sup>15/</sup>

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<sup>14/</sup> Specifically, McDonald's sworn statement that Hairston did not participate in a key April 19, 1990 conference call when the diesel generator start information was discussed prior to the submission of LER 90-006 ("Mr. Hairston was not a participant in that call"); when, in fact, McDonald knew or should have known that Hairston did participate in the April 19, 1990 conference call and that he did have first hand knowledge of the fact that the information regarding the start data of the diesel generators was false and inaccurate at the time LER 90-006 was submitted to the NRC under Mr. Hairston's signature.

<sup>15/</sup> In particular, McDonald's sworn Response asserts that:

Not until April 30, 1990 does it appear that Mr. Mosbaugh articulated for the benefit of his management that the diesel engine start count data contained in the LER was inaccurate...

This response is false and libelous. SONOPCO management had first-hand knowledge that this assertion is false. In this respect, NRC-OI is in possession of tape recordings made by Mr. (continued...)



The totality of documentation in the possession of NRC-OI relating to the conspiracy to submit and the ultimate submission of material false information to the NRC in LER 90-006 demonstrates that SONOPCO's management does not have the requisite character, competence, integrity, candor, truthfulness and willingness to abide by regulatory requirements needed before an amendment to the plant Vogtle license listing SONOPCO as the licensed operator of plant Vogtle may be granted.

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<sup>15/</sup>(...continued)

Mosbaugh which establish that prior to the submission of LER 90-06, Mr. Mosbaugh and a member of his staff advised GPC's management that the diesel engine start count data contained in LER 90-006 constitute a material false statement.

In essence, SONOPCO's response was calculated to misleading the NRC about SONOPCO management's intentional wrongdoing and was further calculated to derail an on-going NRC-OI investigation into the inclusion of the false diesel start data contained in LER 90-006.

Conclusion

Petitioners request that Contentions 1 through 4 be admitted and that they be allowed to appear as parties before this licensing Board.

Respectfully submitted,



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Counsel to Allen Mosbaugh and  
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Dated: December 9, 1992

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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'92 DEC 14 AIO:41

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)

CERTIFICATE OF SERVICE

I hereby certify that on December 9, 1992 copies of  
Amendments to Petitioner to Intervene and Request for Hearing was  
served in the above-captioned proceeding, by facsimile upon the  
following:

Administrative Judge  
Peter B. Bloch, Chair  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Administrative Judge  
Dr. James H. Carpenter  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Administrative Judge  
Thomas D. Murphy  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Arthur Domby, Esq.  
Troutman Sanders  
Suite 5200  
600 Peachtree Street, N.E.  
Atlanta, GA 30308-2216

And, by first class mail, postage prepaid, this 10th day of  
December, 1992, upon the persons listed on the following page:

\*Office of the Secretary  
Attn: Docketing and Service  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

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Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

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Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555


Administrative Judge  
Dr. James H. Carpenter  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
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Administrative Judge  
Thomas D. Murphy  
Atomic Safety and Licensing Board  
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