

UNITED STATES NUCLEAR REGULATORY COMMISSION

SOUTHERN NUCLEAR OPERATING COMPANY

NOTICE OF HEARING AND OPPORTUNITY TO PETITION FOR LEAVE TO INTERVENE

ON AN EARLY SITE PERMIT FOR THE VOGTLE ESP SITE

DOCKET NO. 52-011

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10 of the *Code of Federal Regulations*, Part 50, Domestic Licensing of Production and Utilization Facilities, Part 52, Early Site Permits, Standard Design Certifications, and Combined Licenses for Nuclear Power Plants, and Part 2, Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders, notice is hereby given that a hearing will be held, at a time and place to be set in the future by the United States Nuclear Regulatory Commission (NRC, the Commission) or designated Atomic Safety and Licensing Board (Board). The hearing will consider the application dated August 14, 2006, filed by Southern Nuclear Operating Company (SNC), pursuant to Subpart A of 10 CFR Part 52 for an early site permit (ESP). The application which was supplemented by letters dated August 17, September 6 (two letters), and September 13, 2006 requests approval of a site located in eastern Georgia (near Waynesboro, Georgia) identified as the Vogtle ESP site, for one or more new nuclear reactors that would, if authorized for construction and operation in a separate licensing proceeding under Subpart C of 10 CFR Part 52 or under 10 CFR Part 50, have a capacity of no more than 6800 Megawatts (thermal) additional for the site. The application was accepted for docketing on September 19, 2006. The docket number established for this application is 52-011.

The hearing will be conducted by a Board which will be designated by the Chairman of the Atomic Safety and Licensing Board Panel or by the Commission. Notice as to the membership of the Board will be published in the *Federal Register* at a later date.

The NRC staff will complete a detailed technical review of the application and will document its findings in a safety evaluation report (SER) and an environmental impact statement (EIS). In addition, the Commission will refer a copy of the application to the Advisory Committee on Reactor Safeguards (ACRS) in accordance with 10 CFR 52.23, and the ACRS will report on those portions of the application that concern safety. Upon receipt of the ACRS report and completion of the Nuclear Regulatory Commission (NRC) staff's SER and EIS, the Director, Office of Nuclear Reactor Regulation, NRC, will propose findings on the following issues:

Issues Pursuant to the Atomic Energy Act of 1954, as Amended:

(1) Whether the issuance of an ESP will be inimical to the common defense and security or to the health and safety of the public (Safety Issue 1); and (2) whether, taking into consideration the site criteria contained in 10 CFR Part 100, a reactor, or reactors, having characteristics that fall within the parameters for the site, can be constructed and operated without undue risk to the health and safety of the public (Safety Issue 2).

Issue Pursuant to the National Environmental Policy Act (NEPA) of 1969, as Amended:

Whether, in accordance with the requirements of Subpart A of 10 CFR Part 51, the ESP should be issued as proposed.

The Board will conduct the hearing in accordance with 10 CFR Part 2. If the hearing is contested as defined by 10 CFR 2.4, the Board will consider Safety Issues 1 and 2 and the issue pursuant to NEPA set forth above.

If the hearing is not a contested proceeding as defined in 10 CFR 2.4, the Board will determine without conducting a de novo review: whether the application and the record of the proceeding contain sufficient information, and the review of the application by the Commission's staff has been adequate to support a negative finding on Safety Issue 1 above, and an affirmative finding on Safety Issue 2 above, as proposed to be made by the Director, Office of Nuclear Reactor Regulation; and whether the review conducted by the Commission pursuant to NEPA has been adequate.

Regardless of whether the proceeding is contested or uncontested, the Board will: (1) determine whether the requirements of Section 102(2) (A), (C), and (E) of NEPA and Subpart A of 10 CFR Part 51 have been complied with in the proceeding; (2) independently consider the final balance among the conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; and (3) determine, after considering reasonable alternatives, whether the ESP should be issued, denied, or appropriately conditioned to protect environmental values.

In accordance with 10 CFR 2.309, any person whose interest may be affected by this proceeding and who desires to participate as a party must file a written petition for leave to intervene and must specify the contentions which the person seeks to have litigated in the hearing. A petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition must specifically state: (1) the name, address and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial or other interest in

the proceeding; and (4) the possible effect of any decision or order that may be issued in the proceeding on the petitioner's interest.

Each contention must contain a specific statement of the issue of law or fact to be raised or controverted. A petitioner must also provide the following information with respect to each contention: (1) a brief explanation of the basis for the contention; (2) a concise statement of the alleged facts or expert opinions which support the petitioner's position on the issue and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue; and (3) sufficient information to show that a genuine dispute exists with the applicant/licensee on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. For each contention, the petition must demonstrate that the issue raised in the contention is within the scope of this proceeding and that the issue raised in the contention is material to the findings the NRC must make to support the action that is involved in this proceeding. A petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

All such petitions must be filed no later than 60 days from the date of publication of this notice in the *Federal Register*. Non-timely filings will not be entertained absent a determination by the Commission, or the Atomic Safety and Licensing Board designated to rule on the petition, that the petition should be granted based upon a balancing of the factors specified in 10 CFR 2.309(c)(i)-(viii).

A petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, HearingDocket@nrc.gov; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415-1101, verification number is (301) 415-1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415-3725 or by email to OGCMailCenter@nrc.gov. A copy of the request for hearing and petition for leave to intervene should also be sent to the attorneys for the licensee: Bentina C. Terry, Southern Nuclear Operating Company, Inc., Bin B-022, P.O. Box 1295, Birmingham, Alabama 35201-1295, and Stanford M. Blanton, Esq., Balch and Bingham, P.O. Box 306, Birmingham, Alabama 35201. All petitions must be accompanied by proof of service upon all parties to the proceeding or their attorneys of record.

A person who is not a party may, in the discretion of the presiding officer, be permitted to make a limited appearance by making an oral or written statement of his position on the issues at any session of the hearing or any prehearing conference within such limits and on such conditions as may be fixed by the presiding officer, but may not otherwise participate in the proceeding.

A copy of the SNC ESP application is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor),

Rockville, Maryland. Publicly available records are accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. The accession number for the application is ML062290248. The accession numbers for the supplements to the application are ML062340398, ML062510149, ML062510145, and ML062580074. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room staff by telephone at 1-800-397-4209, (301) 415-4737 or by e-mail to pdr@nrc.gov.

The application is also available to local residents at the Burke County Library in Waynesboro, Georgia, and is available on the NRC web page at <http://www.nrc.gov/reactors/new-licensing/esp.html>.

Dated at Rockville, Maryland this 5th day of October, 2006.

For the Nuclear Regulatory Commission.

/RA/

Annette L. Vietti-Cook,
Secretary of the Commission.