

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before the Licensing Board:

G. Paul Bollwerk, III, Chairman
Nicholas G. Trikouros
Dr. James F. Jackson

In the Matter of

SOUTHERN NUCLEAR OPERATING CO.

(Vogtle Electric Generating Plant, Units 3 and 4)

Docket Nos. 52-025-COL and 52-026-COL

ASLBP No. 09-873-01-COL-BD01

December 31, 2008

MEMORANDUM AND ORDER

(Scheduling Initial Prehearing Conference Regarding Contention
Admissibility; Opportunity for Written Limited Appearance Statements)

After reviewing (1) Joint Petitioners¹ November 17, 2008 hearing petition contesting certain aspects of the combined operating license (COL) application of Southern Nuclear Operating Company (SNC) for its proposed Vogtle Units 3 and 4; (2) the December 12, 2008 responses to that petition filed by SNC and the NRC staff; and (3) Joint Petitioners December 23, 2008 reply to the SNC and staff responses, the Licensing Board has concluded that it would be beneficial to conduct an initial prehearing conference during which it will entertain oral argument regarding the admissibility of the three contentions proffered by Joint Petitioners. The administrative details associated with that argument are set forth below:

¹ Joint Petitioners include the Atlanta Women's Action for New Directions, Blue Ridge Environmental Defense League, Center for a Sustainable Coast, Savannah Riverkeeper, and Southern Alliance for Clean Energy.

A. Initial Prehearing Conference Venue

The Board intends to conduct the argument from the Licensing Board Panel's Rockville, Maryland hearing room. To minimize travel time and expenses, as an alternative to appearing in Rockville, the Board has made arrangements with the agency's Region II office to make available a conference room in its office space in the Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia, from which Joint Petitioners representatives (if they wish to do so) can participate in the argument by videoconference. In the joint scheduling report requested in section B below, Joint Petitioners should indicate whether they wish to avail themselves of this opportunity, as opposed to participating by teleconference or in person from the Licensing Board Panel's Rockville hearing room. In that same report, those counsel for applicant Southern Nuclear Operating Company (SNC) who are located outside the Washington, D.C. area should advise the Board whether they wish to participate from the Panel's Rockville hearing room or would like to make arrangements to participate by videoconference (from Atlanta or otherwise) or by teleconference.²

B. Date and Time for the Oral Argument

The Board is available on the following days and times to conduct the oral argument:

Tuesday, January 27, 2009	9:00 a.m. or 1 p.m. Eastern Time (ET)
Wednesday, January 28, 2009	9:00 a.m. or 1 p.m. ET
Friday, January 30, 2009	9:00 a.m. or 1 p.m. ET

The Board requests that on or before Wednesday, January 7, 2009, SNC, the staff, and Joint Petitioners provide the Board with a joint report that, among other things, specifies at least three dates and times (e.g., Tuesday, January 27, at 9:00 a.m. or 1 p.m. ET, or Friday,

² If one or more of the participants decides to take part in the argument from the Region II conference room via videoconference, because that room is publicly accessible, it also will be available to those members of the public that wish to view the proceeding.

January 30, at 9 a.m. ET) when all the participants are available for an oral argument.

Thereafter, the Board will notify the participants regarding the date and time of the argument, which the Board anticipates should last no more than half-a-day.

C. Oral Argument Logistics

As was indicated previously, the principal focus of the prehearing conference will be the admissibility of Joint Petitioners three contentions.³ In that regard, the Board requests that, as one of the principal participants within the agency involved in formulating the 10 C.F.R. Part 52 rules governing the design certification and combined operating license (COL) processes, prior to the argument the staff provide a presentation, not to exceed fifteen minutes, that affords a generic overview of those processes and their inter-relationship. If staff contemplates using any slides for its presentation, it should provide an electronic copy of those items to the Board and the other participants via the E-Filing system no later than five days before the date scheduled for the prehearing conference.

Thereafter, the allocation of time for arguments by legal counsel in connection with the admissibility of Joint Petitioners contentions is as follows:

1. MISC-1 and MISC-2 (combined)
Joint Petitioners -- 25 minutes (includes rebuttal)
SNC and the NRC staff -- 25 minutes (total for both participants)
2. SAFETY-1
Joint Petitioners -- 15 minutes (includes rebuttal)
SNC and the NRC staff -- 15 minutes (total for both participants)

³ While both applicant SNC and the staff oppose the admission of all three of Joint Petitioners contentions, neither has raised an objection to the standing of any of the entities that constitute the Joint Petitioners. Accordingly, the Board does not intend to entertain argument regarding that matter.

At the beginning of the argument regarding each contention or set of contentions, Joint Petitioners will be asked to specify how much of their total allotted time they wish to reserve for rebuttal while SNC and the staff will be asked to indicate how they have agreed to divide their time. Only one counsel per participant will be permitted to make a presentation regarding any single contention or set of contentions.

In making their arguments, the participants should bear in mind that the members of the Licensing Board will have read their pleadings. As such, they should focus their presentations on the critical points in controversy as those issues have emerged as a result of the various participant filings. Additionally, the participants are advised that at some point prior to the argument the Board may provide the participants with specific questions or areas of concern it wishes to have addressed during the argument.

Finally, as is noted in several orders issued today in the early site permit (ESP) proceeding regarding the proposed Vogtle Units 3 and 4,⁴ following this oral argument the Board in that proceeding (whose membership coincides with the membership of this COL Board) anticipates convening a brief prehearing conference with the parties to that proceeding (which coincide with the participants in this proceeding) to review administrative and scheduling matters associated with the scheduled mid-March 2009 contested and mandatory hearings for that proceeding.

D. Limited Appearance Statements by Members of the Public

Relative to the opportunity for members of the public to present limited appearance statements in accord with 10 C.F.R. § 2.315(a), the Board does not intend to conduct oral

⁴ See Licensing Board Memorandum and Order (Contested Evidentiary Hearing Administrative Matters Regarding Confidential Information) (Dec. 31, 2008) at 2-4 (unpublished); Licensing Board Memorandum and Order (Additional Presentation Topic and Administrative Directives for Mandatory Hearing) (Dec. 31, 2008) at 7 (unpublished).

limited appearance sessions at this juncture. Any person not a petitioner to this proceeding that wishes to make a statement regarding the issues in the proceeding can do so in writing.

Limited appearance statements, which are placed in the docket for the hearing, provide members of the public with an opportunity to make the Board and/or the participants aware of their concerns about matters at issue in the proceeding.

A written limited appearance statement can be submitted at any time and should be sent to the Office of the Secretary using one of the methods prescribed below:

Mail to: Office of the Secretary
Rulemakings and Adjudications Staff
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Fax to: (301) 415-1101 (verification (301) 415-1966)

E-mail to: hearingdocket@nrc.gov

In addition, a copy of the limited appearance statement should be sent to the Licensing Board Chairman using the same method at the address below:

Mail to: Administrative Judge G. Paul Bollwerk, III
Atomic Safety and Licensing Board Panel
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Fax to: (301) 415-5599 (verification (301) 415-7550)

E-mail to: paul.bollwerk@nrc.gov

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD⁵

/RA/

G. Paul Bollwerk, III
CHAIRMAN

Rockville, Maryland

December 31, 2008

⁵ Copies of this memorandum and order were sent this date by the agency's E-Filing system to counsel for (1) applicant SNC; (2) Joint Petitioners; and (3) the staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
SOUTHERN NUCLEAR OPERATING) Docket No. 52-025-COL
COMPANY) and 52-026-COL
)
(Vogtle))
)
(Combined Operating License))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing MEMORANDUM AND ORDER (SCHEDULING INITIAL PREHEARING CONFERENCE REGARDING CONTENTION ADMISSIBILITY; OPPORTUNITY FOR WRITTEN LIMITED APPEARANCE STATEMENTS) have been served upon the following persons by Electronic Information Exchange.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: ocaamail@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop O-16C1
Washington, DC 20555-0001
Hearing Docket
E-mail: hearingdocket@nrc.gov

U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
Washington, DC 20555-0001

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop O-15D-21
Washington, DC 20555-0001
Kathryn L. Winsberg, Esq.
Ann P. Hodgdon, Esq.
Sara Brock, Esq.
Patrick A. Moulding, Esq.
Sarah Price, Esq.
Carol H. Lazar, Esq.
Joseph Gilman, Paralegal
E-mail: klw@nrc.gov
aph@nrc.gov; seb2@nrc.gov
patrick.moulding@nrc.gov, sap1@nrc.gov
jsq1@nrc.gov; Carol.Lazar@nrc.gov

Administrative Judge
G. Paul Bollwerk, III, Chair
E-mail: gpb@nrc.gov

Administrative Judge
Nicholas G. Trikouros
E-mail: nqt@nrc.gov

Administrative Judge
James F. Jackson
E-mail: jxj2@nrc.gov
jackson538@comcast.net

Law Clerk: Wen Bu
E-mail: wen.bu@nrc.gov

OGC Mail Center : OGCMailCenter@nrc.gov

Docket No. 52-025 and 52-026-COL
 MEMORANDUM AND ORDER (SCHEDULING INITIAL PREHEARING CONFERENCE
 REGARDING CONTENTION ADMISSIBILITY; OPPORTUNITY FOR WRITTEN LIMITED
 APPEARANCE STATEMENTS)

Moanica M. Caston, Esq.
 Southern Nuclear Operating Company, Inc.
 40 Inverness Center Parkway
 P.O. Box 1295, Bin B-022
 Birmingham, AL 35201-1295
 E-mail: mcaston@southernco.com

Kenneth C. Hairston, Esq.
 M. Stanford Blanton, Esq.
 Peter D. LeJeune, Esq.
 Balch & Bingham LLP
 1710 Sixth Avenue North
 Birmingham, Alabama 35203-2014
 E-mail: kchairston@balch.com;
sblanton@balch.com; plejeune@balch.com

Kathryn M. Sutton, Esq.
 Steven P. Frantz, Esq.
 Paul M. Bessette, Esq.
 Diane A. Eckert, Admin. Assist.
 Morgan, Lewis & Bockius, LLP
 Co-Counsel for Southern Nuclear Operating
 Company, Inc.
 1111 Pennsylvania Ave., NW
 Washington, DC 20004
 E-mail: ksutton@morganlewis.com
sfrantz@morganlewis.com
pbessette@morganlewis.com
deckert@morganlewis.com

C. Grady Moore, III, Esq.
 Balch & Bingham, LLP
 1901 6TH Avenue, Suite 2600
 Birmingham, AL 35203
 E-mail: gmoore@balch.com

Atlanta Women's Action for New Directions
 (WAND), Blue Ridge Environmental Defense
 League (BREDL), Center for Sustainable
 Coast (CSC), Savannah Riverkeeper and
 Southern Alliance for Clean Energy (SACE)

Robert B. Haemer, Esq.
 Pillsbury Winthrop Shaw Pittman LLP
 2300 N Street, NW
 Washington, DC 20037-1122
 E-mail: robert.haemer@pillsburylaw.com

Turner Environmental Law Clinic
 Emory University School of Law
 1301 Clifton Road
 Atlanta, GA 30322
 Lawrence Sanders, Esq.
 E-mail: lsande3@emory.edu
 Mindy Goldstein
 E-mail: magolds@emory.edu

Docket No. 52-025 and 52-026-COL
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Barton Z. Cowan, Esq.
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
E-mail: teribr61@aol.com

[Original signed by Nancy Greathead]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 31st day of December 2008