

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 Jackson

In the Matter of

SOUTHERN NUCLEAR OPERATING CO.

(Early Site Permit for Vogtle ESP Site)

Docket No. 52-011-ESP

ASLBP No. 07-850-01-ESP-BD01

February 17, 2009

**JOINT INTERVENORS' RESPONSE TO SOUTHERN NUCLEAR OPERATING
COMPANY'S AND NRC STAFF'S MOTIONS *IN LIMINE* TO EXCLUDE PORTIONS
OF REBUTTAL TESTIMONY AND EXHIBITS FILED BY JOINT INTERVENORS**

Pursuant to 10 C.F.R. § 2.323 and the Atomic Safety and Licensing Board's ("Board") November 13, 2008 Memorandum and Order providing a Revised General Schedule (the "Revised General Schedule"), Joint Intervenors¹ submit this response to (1) the Southern Nuclear Operating Company ("SNC") Motion *In Limine* (the "SNC Motion in Limine") to exclude portions of Joint Intervenors' rebuttal testimony and associated exhibits concerning Environmental Contention 1.2 ("EC 1.2"), Environmental Contention 1.3 ("EC 1.3") and Environmental Contention 6.0 ("EC 6.0"), and (2) the Nuclear Regulatory Commission (the "NRC") Staff Motion *In Limine* (the "Staff Motion in Limine") to exclude portions of Joint Intervenors' rebuttal testimony and associated exhibits concerning EC 1.2 and EC 1.3, each filed on February 11, 2009. As further explained below, the Board should not exclude from

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

consideration any evidence set forth in Mr. Barry Sulkin's testimony and associated exhibits regarding EC 1.2,² any evidence set forth in Mr. William Powers' testimony and associated exhibits (with the exception of those portions of JTI000049 and JTI000050 Joint Intervenors do not object to excluding, as indicated in the Staff Motion in Limine) regarding EC 1.3, or any evidence set forth in Dr. Donald Hayes' testimony regarding EC 6.0.

Background

On August 14, 2006, SNC submitted an Early Site Permit application (the "ESP Application") to the NRC. Joint Intervenors (then Joint Petitioners) filed a challenge to the ESP Application on December 11, 2006, seeking to admit seven environmental contentions. On March 12, 2007, the Board admitted two such contentions, EC 1.2 and 1.3.³

On October 17, 2007, SNC filed a motion requesting that summary disposition be entered in its favor for EC 1.2 and EC 1.3.⁴ On November 13, 2007, Joint Intervenors filed an answer to the SNC dispositive motion, which included a statement of material facts at issue and supporting affidavits, asserting that summary disposition was inappropriate in this instance.⁵ The Board, agreeing with Joint Intervenors, found that genuine issues of material fact existed on several

² As noted in SNC's Motion in Limine, Joint Intervenors' do not object to exclusion of Question 14 and Answer 14 of Dr. Shawn Young's Pre-Filed Rebuttal Testimony concerning EC 1.2.

³ See SNC (ESP for Vogtle ESP Site), 65 NRC 237, 259, 261 (Mar. 12, 2007).

⁴ See SNC Motion for Summary Disposition on Intervenors' EC 1.2 (Cooling System Impacts on Aquatic Resources)(Oct. 17, 2007); and see SNC Statement of Undisputed Facts in Support of Applicant's Motion for Summary Disposition of Intervenors' EC 1.2 (Cooling System Impacts on Aquatic Resources)(Oct. 17, 2007); and see SNC Motion for Summary Disposition on Intervenors' EC 1.3 (Oct. 17, 2007); and see SNC Statement of Undisputed Facts in Support of Applicant's Motion for Summary Disposition on Intervenors' EC 1.3 (Oct. 17, 2007).

⁵ See Joint Intervenors Answer Opposing SNC's Motion for Summary Disposition of EC 1.2 (Nov. 13, 2007).

matters raised by EC 1.2 and EC 1.3, and therefore upheld both contentions against the motions for summary disposition.⁶

Then, on August 14, 2008, the NRC Staff issued the Final Environmental Impact Statement (the “FEIS”).⁷ In light of the new information disclosed in the FEIS, on September 23, 2008, Joint Intervenors submitted a motion (dated September 22, 2008) to admit a new environmental contention, designated as EC 6.0.⁸ On October 24, 2008, the Board ruled that the contention raised genuine issues of material fact, and accordingly admitted EC 6.0.⁹

The issues raised in the three admitted contentions will be subject to an evidentiary hearing scheduled for March 16-19, 2009.¹⁰ In connection with this hearing, the Staff, SNC, and Joint Intervenors each filed (1) on January 9, 2009, initial position statements, pre-filed direct testimony, and exhibits for EC 1.2, EC 1.3, and EC 6.0, and (2) on February 6, 2009, response statements, pre-filed rebuttal testimony, and exhibits for EC 1.2, EC 1.3, and EC 6.0.

Legal Standard

In an NRC proceeding, “*relevant, material, and reliable* evidence which is not unduly repetitious will be admitted.”¹¹ To determine admissibility, “strict rules of evidence do not apply to written submissions.”¹² Although the NRC has consulted the Federal Rules of Evidence for

⁶ See SNC (ESP for Vogtle ESP Site), 67 NRC 54 (Jan. 15, 2008) (regarding Environmental Contention 1.2); SNC (ESP for Vogtle ESP Site), 67 NRC 54 (Jan. 15, 2008) (regarding Environmental Contention 1.3).

⁷ See August 14, 2008 Letter from Patrick Moulding, NRC Staff Counsel, to Administrative Judges (notifying parties of availability of FEIS).

⁸ See Joint Intervenors’ Motion to Admit New Contention (Sept. 22, 2008).

⁹ See October 24, 2008 Memorandum and Order (Ruling on Motion to Admit New Contention).

¹⁰ See the Revised General Schedule.

¹¹ 10 C.F.R. § 2.337 (emphasis added).

¹² 10 C.F.R. § 2.319.

guidance in appropriate circumstance, it believes “greater informality and flexibility in the presentation of evidence in hearings, *rather than the inflexible use of the formal rules of evidence* imposed in the Federal courts, can result in more effective and efficient issue resolution.”¹³

Accordingly, an expert’s opinion is admissible if it would assist the trier of fact in understanding the evidence or determining a fact at issue, and the opinion is based on sound methods and reliable principles.¹⁴ In other words, “[i]f scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness *qualified as an expert by knowledge, skill, experience, training, or education*, may testify thereto in the form of an opinion or otherwise.”¹⁵

Discussion

The Contested Testimony of Mr. Sulkin and Associated Exhibits Are Relevant and Material to EC 1.2

When a party has “opened the door to litigation” of certain issues in its pre-filed direct testimony, rebuttal testimony related to these issues should not be excluded.¹⁶ The Staff’s pre-filed direct testimony is replete with references to cumulative impacts of upstream water withdrawals. These references are necessary because the Staff used the Savannah River flow rate to estimate direct, indirect, and cumulative impacts on aquatic species in the FEIS. The flow rate, however, was not measured at the Vogtle Electric Generating Plant site, but was instead

¹³ 69 Fed. Reg. 2182, 2187 (Jan. 19, 2004) (emphasis added).

¹⁴ See *Duke Cogema Stone & Webster* (Savannah River Mixed Oxide Fuel Fabrication Facility). LBP-05-04, 61 NRC 71, 80-81 (2005).

¹⁵ USCS Fed Rules Evid R 702 (emphasis added).

¹⁶ See *Entergy Nuclear Generation Co.* (Pilgrim Nuclear Power Station), ___ NRC ___, 2008 NRC LEXIS 69 (Mar. 24, 2008).

measured at Thurmond Dam.¹⁷ To justify this decision and thus the validity of the impacts analysis, Ms. Jill S. Caverly and Mr. Lance W. Vail state in Answer 37 of their Pre-filed Direct Testimony for EC 1.2, that between the Thurman Dam and VEGP site, “ground water discharges to the river [which increase stream flow] are approximately equivalent to the consumptive loss from the upstream users.”¹⁸ In other words, the Staff asserts that cumulative impacts of upstream withdrawals are insignificant because total consumptive water loss from such withdrawals is less than inflow from groundwater and tributaries. Mr. Sulkin offers testimony in rebuttal to the Staff’s faulty logic. Contrary to the Staff’s claim, upstream withdrawals are significant because of cumulative impingement and entrainment losses, regardless of their impact on river flows.

Mr. Sulkin’s responses in A9, A11, and A14 of his Pre-filed Rebuttal Testimony for EC 1.2, simply assert that upstream withdrawals are relevant to any analysis of the cumulative impacts of proposed Units 3 and 4 and accordingly should have been considered. Such testimony was invited by Staff, when they opened the door to this issue through testimony regarding the import of upstream withdrawals.

1. In A9 of his Pre-filed Rebuttal Testimony for EC 1.2, Mr. Sulkin rebuts assertions in A34 of the Staff’s Pre-filed Direct testimony concerning the impact of operation of the SRS K, L, and P reactors. The Staff argues that the proposed Units will have a small impact because the SRS reactors entrained much greater amounts when they were operating. In rebuttal, Mr. Sulkin points out that past operations at SRS could be cumulatively significant even though they have decreased significantly recently. In addition, Mr. Sulkin notes that the SRS D-area Powerhouse

¹⁷ See Staff Pre-filed Direct Testimony for EC 1.2 (“Staff EC 1.2 Direct Testimony”) at Answer 37 (January 9, 2009).

¹⁸ Id.

remains operational, and impacts of the proposed Units cannot be assessed without knowing “the current withdrawal rates at the SRS D-area Powerhouse, as well as other major withdrawals in the Savannah River Basin.”¹⁹ This statement is in direct response to the Staff’s claim that past SRS withdrawals rates support the conclusion that the new Units will have a small impact. Mr. Sulkin asserts precisely the opposite: that past operations at SRS may lead to a conclusion that cumulative impacts of the new Units are potentially large and significant.

2. In A11 of his Pre-filed Rebuttal Testimony for EC 1.2, Mr. Sulkin rebuts the Staff’s contention in A37 of their Pre-Filed Direct testimony that upstream withdrawals can be disregarded because “groundwater discharges to the river are roughly equivalent to the consumptive loss from upstream users.”²⁰ This is a classic example of rebuttal testimony, and is certainly admissible. The Staff argues that upstream withdrawals are cumulatively unimportant because consumptive water loss is roughly equivalent to inflows from groundwater and tributaries. In rebuttal, Mr. Sulkin shows that the Staff’s answer begs the question of impacts from upstream withdrawals. Contention EC 1.2 concerns impacts of the intake and discharge system of the proposed Units, particularly entrainment and impingement. While the Staff argues that cumulative impacts of upstream withdrawals *on river flows* is insignificant, the Staff totally ignores cumulative impingement and entrainment losses of upstream withdrawals. If the Staff did not want Joint Intervenors to discuss the import of these upstream withdrawals, it should not have opened the door to this testimony by discussing upstream withdrawals.²¹

¹⁹ Sulkin Pre-filed Rebuttal Testimony for EC 1.2 (“Sulkin EC 1.2 Rebuttal Testimony”) at Answer 9 (February 6, 2009).

²⁰ Sulkin EC 1.2 Rebuttal Testimony at Answer 11.

²¹ Notably, SNC seemingly agrees with this conclusion since SNC moves to exclude the sentence where Mr. Sulkin directly quotes the Staff’s testimony. SNC Motion in Limine at 2.

3. In A14 of his Pre-filed Rebuttal Testimony for EC 1.2, Mr. Sulkin rebuts the claims of SNC's witness, Dr Coutant, in A71 and A72 of his Pre-Filed Direct Testimony. Dr. Coutant testifies that discrepancies between the Thurmond Dam release and the flow at the Vogtle site are unimportant for estimating the effects of entrainment and impingement or thermal discharge. In A72 of his Pre-Filed Direct Testimony, Dr. Coutant asserts that the Thurmond Dam release is "a reasonable surrogate for flows at the Vogtle site, despite some marginal water withdrawals and input from tributary streams and groundwater."²² In his answer, Mr. Sulkin explains that Dr. Coutant relies on the same faulty logic as the Staff, which Mr. Sulkin discussed in A11 of his Rebuttal Testimony. That is, Dr. Coutant discusses impacts on flow due to consumptive water losses when the real point of contention is the impact on aquatic species due to impingement and entrainment from upstream withdrawals.

The Contested Testimony of Mr. Powers and Associated Exhibits Are Relevant and Material to EC 1.3

The Staff and SNC object to portions of Mr. Powers' responses in A2, A4, A5, A6, A7, and A8 of his Pre-filed Rebuttal Testimony, and the exhibits associated with these responses, on the basis that they improperly reference the viability of the proposed North Anna 3 hybrid cooling system.²³ These objections are invalid²⁴ because Mr. Powers' answers and the associated exhibits (1) directly address the merits of the dry cooling alternative, and (2) do not

²² Coutant EC1.2 Pre-Filed Direct Testimony at Answer 72.

²³ Staff Motion in Limine at 4-9; SNC Motion in Limine at 3-4.

²⁴ With the exception of those portions of JTI000049 and JTI000050 Joint Intervenors do not object to excluding, as set forth in the Staff Motion in Limine.

introduce into this litigation the subject of the viability of a wet/dry hybrid cooling system as a NEPA alternative.²⁵

In the Memorandum and Order Ruling on the Applicant's Motion for Summary Disposition on Contention EC 1.3 (the "EC 1.3 Order"), the Board held that "Joint Intervenors will be free to present arguments and evidence regarding the merits of dry cooling[,] . . . but any attempt to introduce into this litigation the subject of the viability of a wet/dry cooling system as a NEPA alternative is precluded as outside the scope of [EC 1.3] as admitted."²⁶ The Staff and SNC mistakenly interpret the EC 1.3 Order as broadly prohibiting any references whatsoever to hybrid cooling systems, when in fact the EC 1.3 Order only prohibits references that address the viability of hybrid cooling "*as a NEPA alternative.*" (emphasis added).²⁷ Moreover, the EC 1.3 Order expressly permits Joint Intervenors' to present arguments or evidence addressing the viability of the dry cooling alternative.²⁸

Joint Intervenors concede that in referring to the proposed North Anna 3 nuclear reactor in their Answer Opposing Summary Disposition on Contention EC 1.3, they made reference to the viability of hybrid cooling as a NEPA alternative.²⁹ However, the references made by Mr. Powers in his Pre-filed Rebuttal Testimony on Contention EC 1.3 are clearly distinguishable. In

²⁵ Memorandum and Order Ruling on the Applicant's Motion for Summary Disposition on Contention EC 1.3 ("EC 1.3 Order") at 19-20.

²⁶ *Id* at 19-20.

²⁷ *Id* at 20.

²⁸ *Id* at 19.

²⁹ Joint Intervenors' Answer Opposing Summary Disposition on Contention EC 1.3 at 7, 11-12. The Board ruled that the references in the Joint Intervenors' Answer to hybrid cooling in the following sentences were inadmissible: "During much of the year, the ambient temperature is less than 70 F and there would be little or no differential in the MV output of wet, dry, or parallel dry-wet AP1000 Alternatives. . . . The parasitic load for a dry cooling system could largely be eliminated by utilizing a parallel dry-wet cooling system similar to the one Dominion Resources is proposing for North Anna 3 nuclear reactor in Virginia." *Id*; EC 1.3 Order at 19.

his Rebuttal Testimony, Mr. Powers does not propose that hybrid cooling be considered as a viable alternative to wet-cooling at Plant Vogtle, but instead narrowly references the capability of the proposed North Anna 3 hybrid system to operate in 100% dry-cooling mode as evidence that dry-cooling is in fact a feasible cooling technology under large baseload conditions.³⁰ This testimony directly rebuts the assertion by SNC that dry cooling is infeasible in large part because “technological limits on dry cooling preclude its use with much larger baseload plants such as the AP1000.”³¹ Thus, because Mr. Powers’ Rebuttal Testimony calls into question SNC’s conclusion that dry cooling is an infeasible cooling technology for large baseload reactors, this testimony is consistent with the Board’s ruling that Joint Intervenors are “free to present arguments and evidence regarding the merits of dry cooling.”³²

All of Mr. Powers’ references to the North Anna 3 hybrid cooling system are limited to the dry cooling portion of the proposed hybrid system.³³ Accordingly, these references in the Rebuttal Testimony and associated exhibits³⁴ solely address the merits of the dry cooling alternative and thus, are within the scope of EC 1.3 and admissible within the confines of the EC 1.3 Order.

³⁰ Pre-filed Rebuttal Testimony of William Powers on Contention EC 1.3 (“Powers EC 1.3 Rebuttal Testimony”) at Answers 2, 4-8. For instance, SNC objects to the portion of Answer 6 in which Mr. Powers notes that “[t]he GE-ESBWR reactor is larger than the AP1000 . . . and GE can provide a 100% air cooled version of the GE-ESBWR nuclear plant. . . . The GE-ESBWR reactor has been proposed by Dominion Nuclear for the North Anna 3 plant in Virginia.” *Id.* at Answer 6; SNC Motion in Limine at 4.

³¹ SNC EC 1.3 Response Statement at 9 (February 6, 2009).

³² EC 1.3 Order at 19.

³³ Powers EC 1.3 Rebuttal Testimony at Answers 2, 4-8.

³⁴ Except those portions of JTI000049 and JTI000050 Joint Intervenors’ do not object to excluding, as indicated in the Staff Motion in Limine.

The Contested Testimony of Dr. Hayes Is Relevant and Material to EC 6.0 and Within the Scope of Dr. Hayes' Expertise

In the SNC Motion in Limine, SNC asserts that part of Dr. Hayes' responses in A12, A13, A14, and A15 of his Pre-filed Rebuttal Testimony should be excluded because he testifies to matters beyond the scope of his expertise.³⁵ This assertion is unfounded, and, consequently, Dr. Hayes' testimony should not be excluded. Although in response to two specific examination questions Dr. Hayes stated that he "cannot opine on potential biological impacts" or else is "not qualified" to do so,³⁶ his responses to those specific questions were not intended to address his qualifications for assessing the biological impacts of dredging generally, as SNC suggests. Dr. Hayes is the Director of the Institute for Coastal *Ecology* and Engineering (emphasis added); for the past twenty-two years he has studied and analyzed coastal engineering and specifically the impacts of dredging and dredge sediment removal on natural habitats. He has even represented the United States at a conference in Japan where he spoke on the important issue of environmental impacts of dredging operations.³⁷ It should go without saying that Dr. Hayes is qualified to opine, testify, and comment on the biological impacts of dredging, especially the impacts of sediment removal, given his education, knowledge, skill, experience, and training. In fact, just a sampling of his many academic works demonstrates his qualifications to discuss environmental impacts of dredging and sediment removal.³⁸ Accordingly, SNC's Motion in

³⁵ SNC Motion in Limine at 5-6.

³⁶ Hayes Pre-Filed Rebuttal Testimony for EC 6.0 at Answers 9 and 10 (February 6, 2009).

³⁷ Curriculum Vitae of Donald Hayes at 4 (labeled as JTI000045 in the Hayes Pre-filed Direct Testimony for EC 6.0).

³⁸ *Id.*

Limine should be denied with regard to A12, A13, A14, and A15 of the Hayes Pre-filed Rebuttal Testimony.

The SNC Motion in Limine also moves to exclude A16 of the Hayes Pre-filed Rebuttal Testimony, alleging that this testimony does not constitute rebuttal testimony and is beyond the scope of EC 6.0. Both allegations are without merit. First, A16 rebuts the testimony of both Dr. Coutant and Mr. Moore. As stated in the Q16 of the Hayes Pre-filed Rebuttal Testimony, Mr. Coutant's report concludes that "there would be essentially no environmental impacts of material disposal in the project reach." Dr. Hayes' testimony rebuts this conclusion, asserting that impacts of such material disposal could include impacts associated with the additional dredging required to transport the material by barge to a disposal site. Moreover, Mr. Moore testifies in A8 of his Pre-filed Direct Testimony that "it is likely that the Corps would collect the removed material in hopper barges and manage the material in existing upland disposal areas. As an alternative, the material could be transported to sites where significant erosion has occurred...." Dr. Hayes' testimony addresses this statement, and asserts that such management or transportation of the dredged spoils could require additional dredging to the Federal navigation channel.

Second, Dr. Hayes' testimony regarding the necessary removal of dredge spoils falls neatly within the scope of EC 6.0. In fact, SNC's own witness, Dr. Coutant, testifies about this very issue in his Pre-filed Rebuttal Testimony,³⁹ asserting that there will likely be no environmental impacts of removing and transporting sediment from dredging the Federal

³⁹ Coutant 6.0 Pre-filed Rebuttal Testimony at Answer 9; *see also* Charles C. Coutant, Ph.D., *Analysis of Impacts of Navigation Channel Maintenance for Barge Delivery of Materials for Construction of Vogle Units 3 and 4 on the Ecology of the Savannah River*, January 2, 2009 (labeled as SNC000051 in SNC Initial Position Statement).

navigation channel.⁴⁰ Dr. Hayes' testimony, just like Dr. Coutant's, concerns the environmental impacts of removing and transporting sediment from dredging the Federal navigation channel. This testimony is in no way related, as SNC contends, to analysis of impacts associated with the barge slip and intake canal, which the Board held were beyond the scope of the proceeding.⁴¹ Consequently, SNC's Motion in Limine should be denied with regard to A16 of the Hayes Pre-filed Rebuttal Testimony for EC 6.0.

Conclusion

For the reasons stated herein, the Board should deny the contested portions of the SNC Motion in Limine and the Staff Motion in Limine to exclude testimony and associated exhibits concerning EC 1.2, EC 1.3 and EC 6.0.

⁴⁰ *Id.*

⁴¹ Memorandum and Order (Ruling on Motion to Admit New Contention), at 9-10 (October 24, 2008).

Respectfully submitted this 17th day of February, 2009,

[Original signed by L. Sanders]

Lawrence D. Sanders
Turner Environmental Law Clinic
Emory University School of Law
1301 Clifton Road
Atlanta, GA 30322
(404) 727-3432
Email: lsanders@law.emory.edu

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
SOUTHERN NUCLEAR OPERATING)	Docket No. 52-011-ESP
COMPANY)	
)	
(Early Site Permit for the Vogtle ESP Site))	February 17, 2009

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **JOINT INTERVENORS' RESPONSE TO SOUTHERN NUCLEAR OPERATING COMPANY'S AND NRC STAFF'S MOTIONS *IN LIMINE* TO EXCLUDE PORTIONS OF REBUTTAL TESTIMONY AND EXHIBITS FILED BY JOINT INTERVENORS** were served upon the following persons by Electronic Information Exchange and/or electronic mail.

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

Administrative Judge
G. Paul Bollwerk, III, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: gpb@nrc.gov

Administrative Judge
Nicholas G. Trikouros
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: ngt@nrc.gov

Administrative Judge
James Jackson
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: jackson538@comcast.net

Emily Krauss
Law Clerk
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: emily.krauss@nrc.gov

Office of the Secretary
ATTN: Docketing and Service
Mail Stop 0-16C1
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Patrick A. Moulding
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: patrick.moulding@nrc.gov

Steven P. Frantz, Esq.
Kathryn M. Sutton, Esq.
Paul M. Bessette, Esq.
Mary Freeze
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004
E-mail: sfrantz@morganlewis.com;
ksutton@morganlewis.com;
pbessette@morganlewis.com;
mfreeze@morganlewis.com

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

Jeffrey Stair, Esq.
Georgia Public Service Commission
244 Washington Street
Atlanta, GA 30334
E-mail: jeffreys@psc.state.ga.us

Diane Curran, Esq.
Harmon, Curran, Spielberg & Eisenberg,
LLP
1726 M Street, NW
Suite 600
Washington, DC 20036
E-mail: dcurran@harmoncurran.com

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

Jeffrey Stair, Esq.
Georgia Public Service Commission
244 Washington Street
Atlanta, GA 30334
E-mail: jeffreys@psc.state.ga.us
Copy provided by e-mail only

Dated: February 17, 2009

/signed (electronically) by/

Lawrence D. Sanders
Turner Environmental Law Clinic
Emory University School of Law
1301 Clifton Road
Atlanta, GA 30322
(404) 727-8008
Email: lsanders@law.emory.edu