

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

)	
In the Matter of)	
)	Docket Nos. 52-025-COL and 52-026-COL
Southern Nuclear Operating Company)	
)	
(COL Application for Vogtle Electric)	August 7, 2009
Generating Plant, Units 3 and 4))	
)	

JOINT UNOPPOSED MOTION REGARDING MANDATORY DISCLOSURES

On March 5, 2009, the Atomic Safety and Licensing Board (“Board”) issued an Order in this proceeding admitting one contention, contention SAFETY-1 regarding Low-Level Radioactive Waste Storage. On March 12, 2009, Southern Nuclear Operating Company (“SNC”), the NRC Staff, and the Joint Intervenors¹ (collectively, “the Parties”) submitted a Joint Motion to Suspend Any Obligations of the Parties Concerning Mandatory Disclosures Under 10 C.F.R. § 2.336, pending an appeal of the Board’s decision by SNC and the NRC Staff. The Board granted this motion to suspend the proceeding on March 13, 2009. On July 31, 2009, the Nuclear Regulatory Commission issued a Memorandum and Order (CLI-09-16) denying the appeals of SNC and the NRC Staff.

As a result of this ruling, the Parties’ obligations regarding mandatory disclosures now resume. The Parties have had discussions about the mandatory disclosure process in this proceeding and have reached an agreement among themselves as to the procedures that they wish

¹ Joint Intervenors include the Atlanta Women’s Action for New Directions (“WAND”), the Blue Ridge Environmental Defense League (“BREDL”), the Center for a Sustainable Coast (“CSC”), the Savannah Riverkeeper, and the Southern Alliance for Clean Energy (“SACE”).

to follow regarding mandatory disclosures and, where applicable, the Hearing File. The Parties have also agreed that in the interest of ensuring an orderly proceeding and compliance with NRC regulations, they would seek an Order from the Board confirming the agreements that have been reached. Accordingly, the Parties hereby submit this Joint Unopposed Motion Regarding Mandatory Disclosures and move the Board for an Order approving the following agreed-upon protocol.

The Parties propose to implement the following protocol with respect to mandatory disclosures pursuant to 10 C.F.R. § 2.336:

1. The parties need not identify draft versions of any document, data compilation, correspondence, or other tangible thing that must be disclosed.
2. If the same relevant e-mail exists in multiple locations, each Party may produce only one copy of that e-mail. If the e-mail exists in both sender and recipient e-mail folders, the Party will produce the sender's copy of the e-mail.
3. The Parties need not identify or produce any document that has been served on the Parties to this proceeding.
4. The Parties need not identify or produce press clippings.
5. In connection with the NRC Staff's submittal of the Hearing File, the NRC Staff will identify all relevant documents available via the NRC's website or ADAMS, as required by 10 C.F.R. §§ 2.336(b) and 2.1203. The Parties shall not otherwise be required to identify or produce docketed correspondence or other documents available via the NRC's website or ADAMS.
6. The Parties need not produce documents that are publicly available, but the Parties shall produce a log of such documents and where they can be obtained.
7. The Parties agree to waive the obligation to provide a privilege log required by 10 C.F.R. §§ 2.336(a)(3) and (b)(5). For example, the Parties agree not to produce, at this time, a log identifying attorney-client privileged material, attorney work product, or information subject to the deliberative process privilege. However, the Parties shall produce a log of the documents withheld as containing proprietary information. The Parties agree to preserve and maintain all privileged documents during the pendency of this proceeding.
8. Until the staff issues the final safety evaluation report (SER) or final environmental impact statement (EIS), as applicable to the admitted contention(s), the continuing

obligation of the parties under 10 C.F.R. § 2.336(d) to update their respective disclosures is modified so that information or documents subsequently developed or obtained must be disclosed within 30 days. Following issuance of the final SER or final EIS, as applicable, the continuing obligation of the parties to disclose information or documents will revert to the 14-day update period required by 10 C.F.R. § 2.336(d).

9. Pursuant to the provisions of the Board's order dated August 4, 2009 (re-establishing the administrative/discovery schedule following the Commission decision on the appeal of LBP-09-03), the parties other than the staff will provide initial disclosures by August 31, 2009. The staff will produce its initial hearing file and mandatory disclosures by August 31, 2009.
10. Any Party requesting documents from another Party will pay the related expenses.
11. If any party seeks to obtain full disclosure of any other party's disclosures, in the absence of an agreement establishing another mutually acceptable request submission date approved by the Board, a party must submit the request to the party from whom full disclosure is sought within ten days of the initial or subsequent disclosure. Thereafter, in the absence of the party's agreement to make the disclosure, the party seeking full disclosure must file a motion to compel disclosure with the Board in accordance with 10 C.F.R. § 2.323.
12. All the Parties may, at their option, update their disclosures under 10 C.F.R. § 2.336(d) through the use of e-mail alone. The NRC Staff, however, will make the Hearing File available via the Electronic Hearing Docket, as required by the Board's March 5, 2009 Order (LBP-09-03) in this proceeding.

Counsel for NRC Staff and Joint Intervenors have authorized counsel for SNC to submit this motion on their behalf. For the reasons discussed above, the Parties hereby request that the Board issue an Order confirming the agreed-upon protocol.

Respectfully submitted,

(Original signed by M. Stanford Blanton)

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Dated this 7th day of August, 2009.

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In the Matter of)	
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Southern Nuclear Operating Company)	Docket Nos. 52-025-COL and 52-026-COL
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(COL Application for Vogtle Electric Generating Plant, Units 3 and 4))	August 7, 2009

CERTIFICATE OF SERVICE

I hereby certify that copies of JOINT UNOPPOSED MOTION REGARDING MANDATORY DISCLOSURES in the above-captioned proceeding have been served by electronic mail as shown below, this 7^h day of August, 2009, and/or by e-submittal.

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*And upon any other persons designated on the official service list compiled by the Nuclear
Regulatory Commission in this proceeding.

(Original signed by M. Stanford Blanton)

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Counsel for Southern Nuclear Operating Company

Dated this 7th day of August, 2009.