

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

September 11, 2009

MEMORANDUM AND ORDER  
(Notice of Hearing)

This proceeding concerns the March 31, 2008 application of Southern Nuclear Operating Company (SNC) for a 10 C.F.R. Part 52 combined license (COL). That COL application (COLA) seeks approval for the construction and operation of two new AP1000 nuclear reactors at the existing Vogtle Electric Generating Plant (VEGP) site near Waynesboro, Georgia. In response to a September 10, 2008 notice of hearing and opportunity to petition for leave to intervene, [SNC], et al.; Notice of Hearing and Opportunity To Petition for Leave To Intervene and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation on a [COL] for the [VEGP] Units 3 and 4, 73 Fed. Reg. 53,446 (Sept. 16, 2008), on November 17, 2008, the Center for a Sustainable Coast, Savannah Riverkeeper, the Southern Alliance for Clean Energy, the Atlanta Women's Action for New Directions, and the Blue Ridge Environmental Defense League (collectively Joint Petitioners or Joint Intervenors) filed a timely request for hearing and petition for leave to intervene contesting the SNC COL application. On December 2, 2008, this

three-member Atomic Safety and Licensing Board was established to preside over the contested portion of this COL proceeding.<sup>1</sup> See [SNC]; Establishment of Atomic Safety and Licensing Board, 73 Fed. Reg. 74,532 (Dec. 8, 2008).

On January 28, 2009, the Board conducted a one-day initial prehearing conference, with representatives of SNC and the NRC staff participating from Rockville, Maryland, and Joint Petitioners taking part via videoconference from Atlanta, Georgia, during which the Board heard oral presentations concerning the admissibility of Joint Petitioners three proffered contentions. The Board also requested additional statements of position from the participants, which the participants filed on February 24, 2009, regarding two potentially related Commission rulings and a ruling by a different licensing board on contentions similar to Joint Petitioners proffered issue statements. Thereafter, in a March 5, 2009 issuance, finding that each of the Joint Petitioners had established the requisite standing to intervene in this proceeding and that they had submitted one admissible contention concerning the SNC COLA, the Board admitted Joint Petitioners as parties to this proceeding. See LBP-09-03, 69 NRC \_\_ (Mar. 5, 2009), referred rulings declined, CLI-09-13, 69 NRC \_\_ (June 25, 2009), and appeals denied, CLI-09-16, 70 NRC \_\_ (July 31, 2009).

In light of the foregoing, please take notice that a hearing will be conducted in this proceeding. Subject to any Board determination regarding any request to utilize formal hearing procedures under 10 C.F.R. Part 2, Subpart G, see 10 C.F.R. § 2.310(d), the hearing on

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<sup>1</sup> In accord with section 189a(1)(a) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 189(a)(1)(a), and the Commission's September 10, 2009 hearing notice, see 73 Fed. Reg. at 53,446-47, a mandatory hearing also is required in this proceeding under which a presiding officer would receive evidence from the NRC staff and SNC regarding the sufficiency of the SNC COLA, and the staff's review of that application, with respect to safety and environmental matters that are not the subject of this contested hearing. Under current Commission policy, the Commission would preside over that uncontested adjudicatory proceeding. See Southern Nuclear Operating Co. (Early Site Permit for Vogtle ESP Site), CLI-07-24, 66 NRC 38, 38 & n.2 (2007).

contested matters will be governed by the informal hearing procedures set forth in 10 C.F.R. Part 2, Subparts C and L, 10 C.F.R. §§ 2.300-2.390, 2.1200-2.1213.

During the course of this contested proceeding, the Board may conduct an oral argument, as provided in 10 C.F.R. § 2.331, may hold additional prehearing conferences pursuant to 10 C.F.R. § 2.329, and may conduct evidentiary hearings in accordance with 10 C.F.R. §§ 2.327-2.328, 2.1206-2.1208. The public is invited to attend any oral argument, prehearing conference, or evidentiary hearing. Notices of those sessions will be published in the Federal Register and/or made available to the public at the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and through the NRC web site, [www.nrc.gov](http://www.nrc.gov).

Additionally, as provided in 10 C.F.R. § 2.315(a), any person not a party to the proceeding may submit a written limited appearance statement. Limited appearance statements, which are placed in the docket for this proceeding, 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: [hearing.docket@nrc.gov](mailto:hearing.docket@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

Additionally, in conjunction with consideration of the then-pending SNC application for a 10 C.F.R. Part 52 early site permit (ESP) for proposed Units 3 and 4 on the VEGP site, on March 22 and 23, 2009, the Board conducted oral limited appearance statement sessions in Waynesboro, Georgia, during which members of the public provided the Board and the parties with their views regarding the ESP and COL proceedings. At a later date, the Board may conduct additional oral limited appearance sessions regarding this COL proceeding at a location, or locations, in the vicinity of the VEGP site. Notice of any oral limited appearance sessions will be published in the Federal Register and/or made available to the public at the NRC PDR and on the NRC website, [www.nrc.gov](http://www.nrc.gov).

Documents relating to this proceeding are available for public inspection at the Commission's PDR or electronically from the publicly available records component of NRC's document system (ADAMS). ADAMS, including its adjudicatory proceeding-related Electronic Hearing Docket, is accessible from the NRC web site at [www.nrc.gov/reading-rm/adams.html](http://www.nrc.gov/reading-rm/adams.html) (the Public Electronic Reading Room). Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC

PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD<sup>2</sup>

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G. Paul Bollwerk, III  
CHAIRMAN

Rockville, Maryland

September 11, 2009

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<sup>2</sup> 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 Intervenors; 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 (NOTICE OF HEARING) have been served upon the following persons by Electronic Information Exchange.

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

Dated at Rockville, Maryland  
this 11<sup>th</sup> day of September 2009