

UNITED STATES OF AMERICA  
BEFORE THE NUCLEAR REGULATORY COMMISSION

In the Matter of,  
GEORGIA POWER CO.,

)  
) Docket Nos. \_\_\_\_\_  
)  
)

REQUEST FOR PROCEEDINGS AND IMPOSITION OF CIVIL  
PENALTIES FOR IMPROPERLY TRANSFERRING CONTROL OF  
GEORGIA POWER COMPANY'S LICENSES TO THE SONOPCO  
PROJECT AND FOR THE UNSAFE AND IMPROPER OPERATION  
OF GEORGIA POWER COMPANY LICENSED FACILITIES

To: Kenneth Carr, Chairman  
U.S. Nuclear Regulatory Commission

I. Relief Sought

Petitioners Marvin B. Hobby and Allen L. Mosbaugh,  
hereby request that the Commission, sue sponte, pursuant to  
10 CFR 2.104(C) institute licensing proceedings to determine  
whether Georgia Power Company ("GPC"):

i) Illegally transferred control of its licenses  
to SONOPCO Project (hereinafter SONOPCO) and the Southern  
Company System in violation of 10 C.F.R. 50.80(C);

ii) Can reasonably assure that SONOPCO or other  
entities operating GPC's licensed nuclear facilities are  
complying with NRC regulations;

iii) Can reasonably assure that SONOPCO's or other  
entities' operation of GPC's licensed nuclear  
facilities is not endangering the health and safety of  
the public;

iv) Has the character, competence, fundamental  
trustworthiness and commitment to safety to operate a  
nuclear facility.

The need for immediate and swift action by the Commission, in light of the seriousness of the allegations contained herein, cannot be overstated.

## II. Background of Petitioner

### a) Marvin B. Hobby.

Petitioner Marvin B. Hobby, has devoted the last 22 years to promoting the safe and reliable use of nuclear power. In 1980, the Institute of Nuclear Power Operations ("INPO") was created and Admiral Dennis Wilkinson was named as its first President. In April of 1980, Admiral Wilkinson selected Mr. Hobby to serve as INPO's Communications Manager. He later became Assistant to the President. In 1983 Mr. Hobby became INPO's corporate Secretary as well as continuing in his role as Assistant to the President.

In 1984, Mr. Hobby accepted a position with the Nuclear Utilities Management and Resources Committee ("NUMARC") and served as the Project Manager, Congressional Education.

In June of 1985, Mr. Hobby accepted an offer of employment from GPC's then President Mr. J.H. Miller, Jr., to serve as his assistant. In 1986, in addition to being Assistant to the President, Mr. Hobby was also named as Assistant to GPC's Senior Executive Vice President. In 1987 Mr. Hobby was named GPC's Manager of Nuclear Support. The following year he served as GPC's Manager of Nuclear Support Services. In December of 1988 he was then named as GPC's General Manager of Nuclear Operations Contract Administration and Assistant to the Senior Vice President.

Mr. Hobby served as General Manager of Nuclear Operations Contract Administration until April of 1990, at which time he was forced from the company after attempting to bring to GPC management's attention that it had improperly transferred control of its nuclear licenses to SONOPCO and the Southern Company. In this regard, on April 27, 1989, Mr. Hobby wrote a highly confidential memorandum (co-signed by GPC's then Senior Vice President George F. Head). A redacted copy of this memo is attached as Exhibit A. This memo alerted GPC management to the fact that it appeared that GPC was violating its licenses by improperly transferring control of its nuclear facilities. On that day, and the following day, April 28, 1989, a GPC vice president, Fred R. Williams, instructed Mr. Hobby to destroy all copies of his April 27, 1989 memo. Mr. Hobby, concerned about his potential liability, sought outside advice. On June 8, 1989, Mr. Hobby wrote to Admiral Wilkinson to explain the concern he had regarding his perception that GPC improperly transferred control of its nuclear facilities to the Southern Company and SONOPCO as well as GPC's reaction to his raising the concern to management. A redacted copy of Mr. Hobby's letter to Admiral Wilkinson is attached hereto as Exhibit "B". Before Mr. Hobby could get GPC to resolve his concern over the improper transfer of GPC's license to Southern Company and SONOPCO, he was forced from GPC. Inasmuch as Mr. Hobby was unable to resolve his concern internally, as he faithfully tried to do, he is now forced to petition the Commission directly.

b) Allen L. Mosbaugh.

Petitioner Allen L. Mosbaugh has devoted the last 16 years to the safe start up, operations, and testing of commercial nuclear power reactors. Mr. Mosbaugh has been trained and certified as a Senior Reactor Operator (SRO) and Shift Technical Advisor (STA), and holds undergraduate and graduate degrees in Nuclear Engineering.

Between 1986 and May of 1990, Mr. Mosbaugh served as GPC's Vogtle project Assistant Plant Support Manager. He was in charge of a staff of over 400 people in the areas of technical support, engineering support, security, administration, training, and quality concerns. Mr. Mosbaugh, until May of 1990, was the Vice-Chairman of the Plant Review Board ("PRB"), one of four Plant Duty Managers, as well as a Vogtle project Emergency Director. Mr. Mosbaugh was removed from the PRB by Plant General Manager George Bockhold after he attempted to resolve safety issues with the PRB.

Between 1984 and 1986, Mr. Mosbaugh served as GPC's Pre-operational Superintendent and Superintendent of Engineering Services for the Vogtle project. In this capacity he was responsible for start up and pre-operational testing of Unit 1. He assembled and managed 150 engineers and additional support and clerical staff.

By April of 1990, Mr. Mosbaugh came to the conclusion that the highest levels of the SONOPCO project, including R. Patrick McDonald and Joseph M. Farley, were in control of the operation of GPC's Vogtle project. Mr. Mosbaugh concluded that SONOPCO was needlessly endangering the

public's health and safety by: refusing to adhere to technical specifications in the interest of schedule; carelessly disregarding for reactor criticality safety; operating radioactive waste systems as to be in gross violation of NRC requirements; refusing to report adverse events and conditions to the NRC as required by regulations; submitting false information to the NRC; repeatedly allowing the Vogtle project to enter Technical Specification 3.0.3 "motherhood" conditions without notifying the NRC or correcting the adverse condition within the required time span; adopting a policy of intentionally "taking" Licensee Event Reports ("LER's") to keep the Vogtle plant on line and on schedule during planned shut downs; and rewarding managers for engaging in non-conservative and questionable compliance practices.

### III. Facts

Petitioners submit the following information in support of their request for proceedings.

#### 1. Illegal Transfer of Licenses to SONOPCO.

GPC improperly transferred control of its nuclear operating licenses to The Southern Company and to SONOPCO without first obtaining permission from the Commission to do so pursuant to 10 CFR 50.80 ("No license...shall be transferred, assigned, or in any manner disposed of, either voluntarily or individually, directly or indirectly, through transfer of control of the license to any person, unless the Commission shall give its consent in writing"). Evidence

that GPC transferred control of its licenses to SONOPCO was obtained as a result of Petitioners' witnessing the day-to-day operation of GPC's nuclear facilities both at the site (by Mr. Mosbaugh) and at GPC's corporate offices (by Mr. Hobby).

Although Mr. Farley asserts under oath that he is not a Corporate Officer of GPC (rather he is an officer of Southern Company Services and The Southern Company), he is the SONOPCO Chief Executive Officer ("CEO"). Indeed, GPC's Senior Executive Vice President through May of 1990, H. Grady Baker, Jr., acknowledges that Mr. Farley is SONOPCO's de facto CEO: "The appropriate oversight of SONOPCO exists, in that the Chief Operating Officer, Pat McDonald and tje CEO or not the CEO because its not a corporation -- but Farley and McDonald are officers of Georgia Power Company, reporting to the president, Bill Dahlberg." See, Baker Deposition Transcript at pp. 16-17 (excerpt attached as Exhibit "C"). As the above quotation also demonstrates, Mr. Baker was also led to believe that Mr. Farley was an officer of GPC reporting to GPC's President. Id. Yet Mr. Farley denies that he is an officer of GPC. See Farley Deposition at p. 10 (excerpt attached as Exhibit D).

A thorough review of SONOPCO's operation will demonstrate that SONOPCO's CEO is Mr. Farley, not Mr. Dahlberg. The actual chain of command is General Plant Manager George Bockhold to SONOPCO Vice President McCoy; McCoy to SONOPCO's Senior Vice President, George Hairston, Hairston to SONOPCO's Executive Vice President and Chief Operations Officer, R. Patrick McDonald; McDonald to

SONOPCO's Chief Executive Officer, Mr. Farley.

In an April 27, 1989 memo, Mr. Hobby advised GPC Vice President Fred Williams in writing that in the course of attempting to perform his function as General Manager, Nuclear Contract Administration, he observed that Messrs. Farley and McDonald -- not Mr. Dahlberg -- were in control of and were operating GPC's nuclear facilities. Mr. Hobby was instructed to destroy all copies of the memorandum. Thus, since April of 1989, GPC was advised in a confidential memorandum that in the opinion of its contract Administration Group, GPC had illegally transferred control of its nuclear licenses to SONOPCO; and SONOPCO's CEO, Mr. Farley, and Chief Operating officer, Mr. McDonald, were in control of GPC's nuclear licenses in violation of NRC regulations.

2. GPC misled the Commission about the chain of command from the Vogtle project's Plant Manager to its CEO.

GPC's Executive Vice President of Nuclear Operations, R. Patrick McDonald, knowingly made false statements to the NRC commissioners in the presence of GPC's President, A.W. Dahlberg; Vice President for Nuclear Generation, C. Ken McCoy; and General Manager of the Vogtle Project, George Bockhold. Yet no one from GPC attending the meeting with the Commission corrected the false statement made by Mr. McDonald to the Commission.

On March 30, 1989, during the course of a transcribed proceeding held before the Commission, Mr. McDonald was asked by then Commissioner (now Chairman) Carl to state the

"hierarchy between the CEO and the plant manager" of the Vogtle project so Mr. Carr could evaluate his "management concern" he had that the plant manager, Mr. Bockhold, being "a long way from the CEO." Mr. McDonald misled Commissioner Carr when he eliminated one entire level of management between the plant manager and the CEO. The transcript of the proceeding demonstrates that Mr. McDonald stated that the reporting chain was General Manager, George Bockhold, to Vice President for Nuclear Generation, Ken McCoy; who reported to Executive Vice President of Nuclear Operations, R. Patrick McDonald, who in turn reported directly to the CEO, GPC's President, A. William Dahlberg. A copy of the relevant transcript pages is attached hereto as Exhibit E. In reality, Mr. McCoy did not report to Mr. McDonald but rather to SONOPCO's Senior Vice President, Mr. George Hairston, who then reported to Mr. McDonald. While it may be conceivable that Mr. McDonald may have suffered from a lapse of memory, it is inconceivable that Messrs. Dahlberg, McCoy and Bockhold suffered the same lapse of memory at the exact same time. Messrs. Dahlberg, McCoy and Bockhold should have known that Mr. McDonald's statements were false and should have brought this to the immediate attention of the Commission and otherwise corrected the record before the Commission acted on the Vogtle full power license request. Although GPC eventually corrected a portion of the false statement, it was not corrected until after the full power license was granted. Moreover, the correction did not address the fact that Mr. McDonald was and continued to

reports to SONOPCO's de facto CEO, Mr. Joseph Farley, rather than to GPC's President. See 1, infra.

3. SONOPCO intentionally misled the NRC about the condition of the Vogtle Plant after a Site Area Emergency in order to hasten the restart of the reactor.

As the Commission is well aware, a near disaster befell the nuclear industry when, in March of 1990, the Vogtle nuclear station had a total loss of electrical power while the Reactor Coolant System was at "midloop" and without containment integrity. Following the station blackout, SONOPCO submitted a Confirmation of Action Response letter (COAR) and a follow-up Licensee Event Report (LER), No. 90-006. Both the COAR and LER contained known false statements intended to mislead the NRC with false assurances about the reliability of the diesel generator whose failure resulted in the Site Area Emergency. The NRC was advised in the COAR and LER that the back-up diesel generator that failed to start and caused the blackout had been returned to a safe operating and reliable condition. SONOPCO alleged in the COAR and LER that the diesel was reliable because it had been successfully started multiple times without suffering a failure, trip or problems. But, as SONOPCO knew, the diesel generator had actually continued to experience an excessive number of trips, failures and problems similar in nature to the failure which led to the March 20, 1990 station blackout. Indeed, on April 10, 1990, Mr. Mosbaugh wrote a memo to the Vogtle General Manager, Mr. Bockhold, and informed him that the diesel air quality statements made in the COAR were false. On April 19, 1990 Mr. Mosbaugh had

informed SONOPCO's Senior Vice President, Mr. George Hairston, that the diesel had suffered trips and failures. Nonetheless, later that same day SONOPCO's Senior Vice President, George Hairston, signed LER 90-006-00, after he was advised that the information stated therein contained false information. On April 30, 1990 Mr. Mosbaugh submitted a memorandum to Mr Bockhold stating diesel start data contained in the LER was incorrect. On May 10, 1990, Mr. Mosbaugh, acting as the Chairman of the Vogtle Plant Review Board ("PRB"), issued an action item to Mr. Bockhold requiring the resolution of the incorrect statements contained in the COAR. The following day, May 11, 1990, Mr. Mosbaugh was removed from the PRB.

An independent investigation into this matter will demonstrate that:

- a) The statements made in the COA and LER were used by the NRC to make decisions "significant to the regulatory process."
- b) The LER wording is false because it overstated the reliability of the diesel and did not count numerous failures and problems of the diesel when GPC attempted to start it up.
- c) Concern over the accuracy of the data contained in the LER was raised by Mr. Mosbaugh before the LER was submitted.
- d) SONOPCO personnel recognized that the COAR statements were false before submitting the LER;
- e) Petitioner Mosbaugh submitted detailed factual

information to GPC after the LER was submitted which conclusively demonstrated that the LER contained false information;

- f) SONOPCO intentionally delayed revising the LER until after critical meetings with the NRC and Commission were held on June 8, 1990 (ITT presentation to Commissioners);
- g) After the ITT Presentation to the NRC Commissioners, SONOPCO further delayed correcting the LER even though QA had already substantiated the inaccuracies contained in the LER.
- h) SONOPCO proceeded with actions to submit the revised LER only after Petitioner Mosbaugh continued to ask "why the revised LER has yet to be submitted" to the NRC (Mr. Mosbaugh raised this question in a meeting attended by the NRC and the General Manager);
- i) On June 28, 1990 and June 29, 1990, SONOPCO drafted at least six cover letters to be submitted with the revised LER. Each of these six cover letters states false explanations and were concocted after the fact without regard to the truth. The multiple drafts of the cover letters demonstrate that SONOPCO does not intend to advise the NRC why the errors in the LER were actually made. To wit, the different explanations stated in five of the cover letters are as follows:

<u>DATE/TIME</u>		<u>EXPLANATION CONTAINED IN DRAFT</u>
6-28-90	07:51	All tests of diesel were counted but only valid failures were considered in the conclusion that no problems or failures occurred
6-28-90	08:55	All tests were counted regardless of whether they were valid or not.
6-29-90	07:55	This draft asserts that the LER really meant to read "subsequent to the event" but was inadvertently worded "subsequent to the test program."
6-29-90	11:42	This draft states that the LER did not consider failures and problems associated with the troubleshooting and restarting the diesel.
6-29-90	13:11	This draft states that the error occurred due to poor record keeping practices and no definition of the end of the test program;

j) A review of the performance records of the diesel generator will demonstrate that it was unreliable and that the statements provided to the NRC were false and intentionally misleading. Indeed, the diesel generator was so unreliable after the site area emergency that GPC was eventually forced to initiate three different design changes to remove or modify numerous unreliable components from the design and control logic when the diesel experienced additional failures after the LER was submitted.

k) The unreliability of the components that caused the diesel to fail to perform its intended safety function when actually called upon to work was known to be unreliable for years and remained

uncorrected by the licensee;

- 1) SONOPCO retaliated against Allen Mosbaugh by removing him from the PRB after submitting memorandum to George Bockhold demonstrating that his personal presentation to the NRC contained incorrect information and that the LER and COAR letters contained false information.

Thus, the diesel was not as reliable as the COAR and LER conveyed to the NRC. As such, SONOPCO provided false and misleading information to the NRC about the actual reliability of the diesel generator and the actual failure rate of the generator. Thereafter, a cover-up of the reliability of the diesel followed and Mr. Mosbaugh's attempts to correct the false statements contained in the LER and COAR resulted in his removal from the PRB.

By misleading the NRC about the safe operating condition of the diesel generator, SONOPCO demonstrated a complete lack of concern for the safe operation of the Vogtle facility.

4. GPC's Executive Vice President submitted perjured testimony during the course of a proceeding commenced under Section 210 of the Energy Reorganization Act.

GPC's Executive Vice President, R. Patrick McDonald, knowingly submitted false testimony during proceedings commenced pursuant to Section 210 of the Energy Reorganization Act. In the Fuchko & Yunker v. Georgia Power Company Section 210 proceedings, Mr. McDonald stated under oath at the hearing and in a previous deposition that the staff of the newly formed SONOPCO project was chosen

"from the top down" (i.e. management picked the Vice Presidents, the Vice Presidents picked the General Managers, then the General Managers picked their own Managers, then the Managers picked their Supervisors, etc.). See Deposition transcript at pp. 50, 62, and January 4, 1989 Hearing Testimony at p. 429 (both of which are attached hereto as Exhibit F).

Moreover, GPC's counsel was advised that Mr. McDonald's testimony was false prior to that counsel's calling Mr. McDonald as a witness at the Yunker/Fuchko hearings on January 4, 1989. In this regard, on January 2, 1989 (two days before Mr. McDonald was to testify), a meeting of GPC's witnesses was scheduled by GPC's counsel, the Troutman, Sanders, Lockerman and Ashmore law firm. As Mr. Hobby was one of the witnesses GPC planned to call at the hearing, he was asked to attend and did, in fact, attend this meeting. At this meeting, Mr. McDonald addressed the group and stated how the SONOPCO staff was selected. Mr. McDonald stated that the "top down" approach was used to staff the SONOPCO project. Near the end of the meeting, Mr. Hobby informed GPC's counsel that Mr. McDonald's statement regarding how the SONOPCO staff was chosen "from the top down" was false. Mr. Hobby also advised GPC's counsel that other statements made by Mr. McDonald were also false. GPC's counsel responded to Mr. Hobby's statement that he believed Mr. McDonald's statements to be false by advising Mr. Hobby that he would have to change his testimony. When Mr. Hobby was instructed to change his testimony, he refused to do so and

advised GPC counsel that he would not cooperate in their attempt to submit perjurious testimony during the course of the Yunker and Fuchko proceedings.

The following day, on January 3, 1989, Mr. Hobby advised Mr. Thomas McHenry of the false statements Mr. McDonald made at the January 2, 1989 meeting. Mr. McHenry confirmed that if the statement about the "top down" approach of filling SONOPCO staff positions was made by Mr. McDonald, then Mr. McDonald would not be telling the truth. Mr. McHenry advised Mr. Hobby that he had 1st hand knowledge that the assertion was false. Mr. Hobby further advised Mr. McHenry that he was instructed to change his testimony to coincide with Mr. McDonald's but he refused to do so. See Affidavit of Thomas McHenry, attached as Exhibit "G". Indeed, the false "top down" statement was made by Mr. McDonald under oath on December 23, 1988 and January 4, 1989, during the course of the section 210 proceedings. See Exhibit "H". More troubling is the fact that prior to allowing Mr. McDonald to take the witness stand at the Yunker/Fuchko proceedings, GPC's counsel had arranged, during confidential settlement discussions, that Mr. Yunker's and Fuchko's counsel would not subject Mr. McDonald to vigorous cross-examination when he testified thereby assuring that 1) his perjurious testimony would not be challenged and, 2) it could be used in subsequent proceedings before the NRC.

The false testimony Mr. McDonald gave prior to and during the Yunker and Fuchko hearing was of a critical nature. Messrs. Fuchko and Yunker alleged that they were

prohibited from transferring out of GPC's nuclear security department and into SONOPCO's organization because they had raised valid safety concerns about GPC's improper handling of safeguards materials. In an attempt to demonstrate that Messrs. Yunker and Fuchko were not improperly kept out of SONOPCO, GPC alleged, through the testimony of Mr. McDonald, that SONOPCO positions could not be filled until a manager of the security department was chosen because of the "top down" method routinely employed to fill all positions at SONOPCO. See December 23, 1988 Deposition Transcript of R. Patrick McDonald at p. 50, 62 (attached as Exhibit I).

5. SONOPCO routinely threatens the safe operation of GPC's nuclear facilities by allowing them to enter "motherhood."

SONOPCO repeatedly allowed the Vogtle Plant to violate Technical Specification 3.0.3 and enter "motherhood" without correcting the situation or notifying the NRC. Technical Specification 3.0.3 is the "last eschelon of defense" in assuring that sufficient redundancy and margins of safety are maintained for safe plant operation. To wit, under Technical Specification 3.0.3, a plant shut down and NRC notification are required within one (1) hour. The following are some examples where Plant Vogtle entered "motherhood" without management appropriately correcting the situation or notifying the NRC:

- a) Both Unit 1's and Unit 2's A and B train safety related load sequencers have been inoperable due to failure, downpowering and other conditions rendering them inoperable on numerous occasions.

Licensed operators were not knowledgeable that the loss of this sequencer resulted in the plant entering "motherhood" and as such the NRC was never notified of the condition pursuant to Technical Specification 3.0.3.

6. SONOPCO routinely endangers the public's safety by ignoring technical specifications.

SONOPCO has made a conscious decision to endanger the public's safety by subverting technical specifications so as to be able to keep the Vogtle Plant operating and/or to speed up the restart of the Vogtle facility.

Illustrative examples of the willful and repeated technical specification violations as follows:

- a) The licensee willfully and knowingly violated Vogtle Unit 1 Technical Specifications by opening "Dilution Valves" required locked closed by technical specifications. The valves were opened while the Reactor Coolant System was at "mid-loop," thus placing the plant in an unanalyzed condition and risking an uncontrolled "dilution accident" and "inadvertent reactor criticality." The valves were opened to speed the outage so the plant could be placed back on line according to the outage schedule. Breaching technical specifications to stay on schedule is undoubtedly due, in part, to SONOPCO's philosophy -- attributed to Messrs. Farley, McDonald, Hairston and three SONOPCO Vice Presidents (it was not

attributed to Mr. Dahlberg which further demonstrates that Mr. Farley and not Mr. McDonald controls GPC's operating licenses) -- that outages must be scheduled assuming that:

"...everything goes right. Everything falls into place right. That you do not put any contingency or extra time in there..."  
(quotation verbatim from Vice President McCoy).

The pressure to keep on schedule will necessarily result in managers intentionally breaching technical specifications and "taking" LERs in order to remain on schedule.

- b) On February 26, 1990, the NRC found that the same dilution valves identified in 6(a) above were again unsecured while at "mid loop" in violation of Technical Specifications. Vogtle senior management willfully violated Technical Specifications again by not "immediately" securing the valves as required by technical specifications because management was too busy due to the outage schedule. Instead, they argued for five hours that locking the valves was not required and that a paper "hold" tag would be sufficient.
- c) On January 20, 1989 procedural errors made by two shifts of licensed operators miscalculated the shutdown margin for Vogtle Unit 1 which was shutdown at the time. The RCS boron concentration was dangerously low at 1396 ppm and xenon was decaying rapidly (zero percent shutdown margin was 1420 ppm boron). There were no plans to alter RCS

boron concentrations. By pure luck, a reactor engineer came to the control room and felt uneasy with the low boron concentration. He recalculated the shutdown margin revealing an error of 3.6%. Immediate boration was ordered to averting an inadvertent criticality. Senior plant management clearly realized the gravity of the event by responding in a private meeting that this event could have caused not only a shut down of Unit 1 but also that it could have interfered with the licensing of Unit 2. Moreover, after these events were brought to Mr. Bockhold's attention, no deficiency was written, no critique ever conducted, no reivev to assure Technical Specifications were not violated was conducted and no report to the NRC was made.

- d) On March 22, 1990, GPC employees were told to keep planned shutdowns on schedule by "taking" LER's (i.e. create an LER situation in order to keep the plant running). This practice is indicitive of the philosophy employed by SONOPCO's CEO, Mr. Farley, and COO, Mr. McDonald. See 6(a) above for the "philosophy" being employed on site.
- e) Other lesser examples include:
  - i) The Licensee knowingly concealed a technical violation which if recognized would have resulted in a safety-related shut down of Vogtle's Unit 1. This technical violation

concerned the failure to properly test approximately 39 containment isolation valves in violation of technical specification surveillance 4.6.1.1.a. Because the surveillance tests had not been performed, the valves were to be considered inoperable. The licensee had one hour to assure the valves were in a "safe" condition. The surveillance tests were not completed for two hours, thereby requiring the shut down of Unit 1 for one hour. Instead, SONOPCO subverted the safety procedure by performing the surveillance tests without initiating a Limiting Condition of Operation, (LCO). Had the LCO been initiated, SONOPCO would also have been required to submit to the NRC a Notification of Unusual Event, (NUE), causing further embarrassment since Unit 1 had to report a NUE for the same reasons on February 23, 1990. See D.C. 2-90-0022;

- ii) SONOPCO knowingly concealed another technical violation on March 1, 1990 when a mode 5 to mode 6 change occurred even though required equipment was not operable. The failure to comply with the technical specification translated to a 12 hour schedule enhancement at a critical juncture;
- iii) On March 5, 1990, SONOPCO knowingly concealed another technical violation when "B

"train" RHR pump vibrations resulted in the cracking of a NSCW water cooling line. With the pump vibrating severely and with a failed cooling line, the pump should have been declared inoperable. At the same time the "A train" RHR pump was drained due to outage-related work. Under Technical Specification 3.9.8.1, both trains were not operational. A LCO and action statement for this condition should have been entered. Had an LCO and action statement been entered, certain "actions or operations" would have had to be suspended. Instead, the pump was not declared inoperable and the LCO was not entered.

7. SONOPCO repeatedly concealed safeguards problems from the NRC.
  - a) SONOPCO personnel (including a SONOPCO Vice President and SONOPCO General Manager, and a Southern Company Services Manager) knowingly and repeatedly hid safeguards problems from the NRC and willfully refused to comply with mandatory reporting requirements. Moreover the SONOPCO Vice President made false statements to the NRC during an Enforcement Conference about the status of safeguards materials in Birmingham, Alabama. The false and misleading information presented at the Enforcement Conference and other information withheld from the NRC are highly significant to

the regulatory process and were relied upon as a basis for NRC decisions, which had the NRC had the benefit of complete, factual information, the NRC would have, most probably, increased the civil penalties from the minimum \$50,000 into the hundreds of thousands of dollars (i.e. 100% increase in the base penalty due to past performance, 100% increase in the base due to multiple events, 50% increase for failure to report, a 50% increase for no prompt corrective action, and an increase due to "willfulness").

- b) On July 23, 1990, Plant and SONOPCO senior management prevented the Site Security Manager from making a Red Phone notification within one hour as required by 10 C.F.R. 73.71. The manager was so prevented hoping to delay or defuse NRC knowledge of programatic problems within SONOPCO (and its design agencies which include Southern Company Services) with safeguard documents.

- 8. SONOPCO has endangered the public's health and safety by operating radioactive waste systems and facilities known to be in gross violation of NRC requirements.

In early 1988, Plant Vogtle's radioactive waste filter system was installed and operated at Plant Vogtle in gross violation of Regulatory Guide 1.143. Although the system was shutdown by Quality Assurance due to programatic breakdowns in procurment and design, in February of 1990, SONOPCO approved its resumption eventhough the violations

observed by Quality Assurance had not been remedied. When the Plant Review Board attempted to consider whether a the system should be resumed, Vogtle's General Manager, George Bockhold, intimidated members of the PRB. The end result was that the system was returned to service eventhough 10 C.F.R. 50.59 safety evaluations and accident analysis are inadequate and/or incorrect. As such, a spray of radioactive leakage from rubber hoses and plastic pipe used in this makeshift system can flow unrestricted into storm drains which would result in its discharge into Beaver Creek.

9. SONOPCO management routinely risks the safe operation of GPC's Nuclear facilities through non-conservitive and questionable management practices.

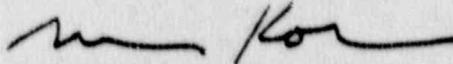
SONOPCO encourages non-conservative and questionable compliance practices by:

- a) Praising managers for taking risks.
- b) Not taking any adverse action against managers or employees who engage in non-conservative and questionable compliance practices.
- c) Refusing to critically investigate events or practices resulting in LERs.
- d) Retaliating against managers who make their regulatory concerns known to GPC and/or SONOPCO management.

WHEREFORE, Petitioners request that this Honorable Commission, sue sponte, institute proceedings to consider:

- a) whether GPC illegally transferred control of its licenses to SONOPCO and the Southern Company System in violation of 10 C.F.R. 50.80(C);
- b) whether there is reasonable assurance that SONOPCO's or other entities' operating GPC's licensed nuclear facilities are complying with NRC regulations;
- c) whether there is reasonable assurance that SONOPCO or other entities operation of GPC's licensed nuclear facilities is endangering the health and safety of the public; and
- d) whether the licensee has the character, competence, fundamental trustworthiness and commitment to safety to operate a nuclear facility.

Respectfully submitted,



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Dated: September 11, 1990  
65/NRCGP